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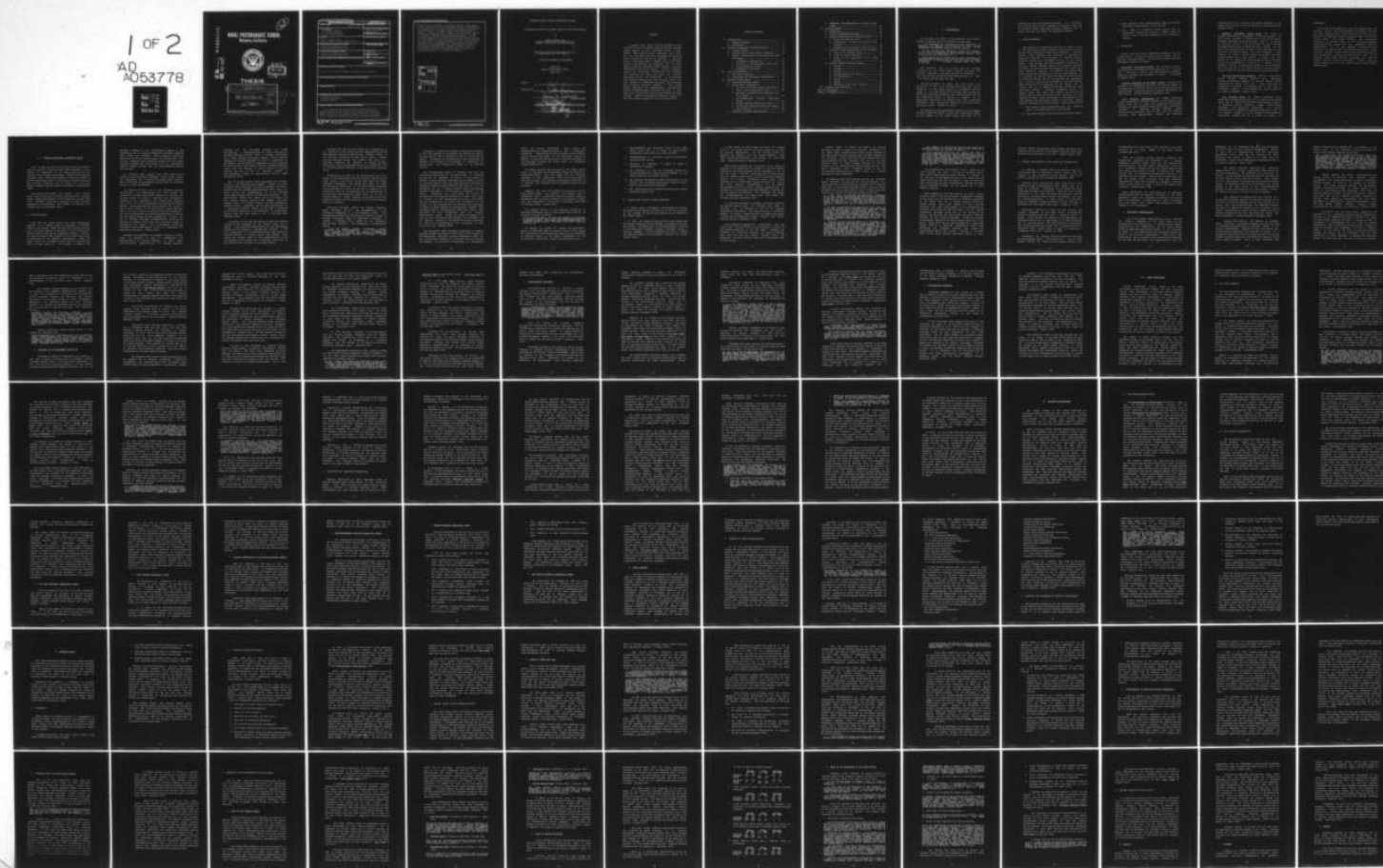
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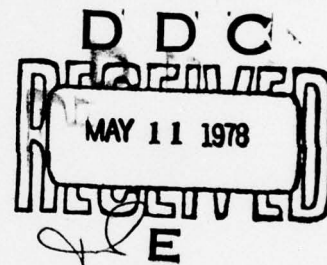
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IN THE ARMED FORCES OF THE UNITED STATES.

by

(10) John B. Creel, Jr.  
Major, United States Marine Corps

(9) Master's thesis

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COLLECTIVE ACTION IN THE ARMED FORCES OF THE UNITED STATES

by

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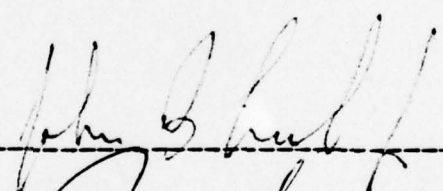
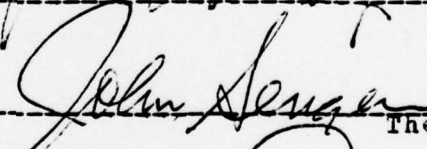
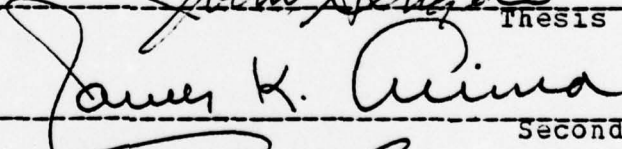
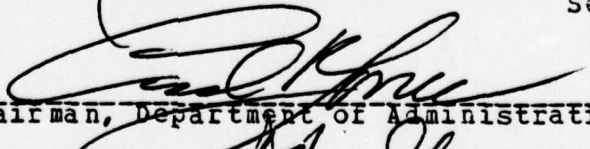
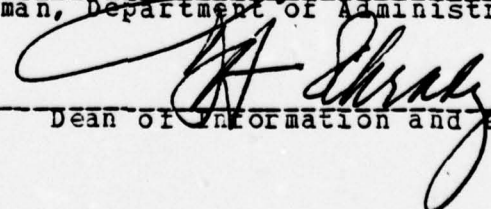
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## ABSTRACT

A growing need among service personnel to take collective action to protect their social and economic status appears to have developed during the last decade. Past studies of this phenomenon have been, for the most part, limited to examining one means by which collective action can be achieved -- military unions. This paper takes a broader look at collective action in the military by examining the two basic types of military collective action groups -- military associations and military unions. Social, economic, legal, and attitudinal factors which will determine the direction and shape the means of military collective action are considered. It is concluded that military associations and military unions are both capable of effectively fulfilling the collective action needs of military personnel -- each having unique advantages and disadvantages. Circumstances appear to mitigate against military unionism at this time (e.g., the present national mood against military unions). Therefore, military associations appear to be a more viable alternative for collective action.



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## I. INTRODUCTION

In its April 1976 report to the President, the Defense Manpower Commission made the following observations:

. . . The President, the Congress and the Secretary of Defense, who together are viewed from below as the collective leadership of the forces, do not always understand the manpower impact of their actions. . . .

At top management and leadership levels, there appears at times to be tendencies to look at numbers or statistics or to adopt an impersonal quantitative approach when dealing with personnel matters. . . .

Many members of the active forces feel dismayed and disillusioned because of what they perceive to be neglect, disinterest or a breach of faith on the part of their Government. . . . [Defense Manpower Commission 1976, p. 59, 60]

The Commission went on to warn that the civilian leadership of the armed forces "should not give them [service personnel] reasonable grounds for believing . . . that they [service personnel] need representation in order to be fairly and equitably treated."

Empirical research has shown that when people feel threatened or are in a stressful situation, they tend to socialize. In other words, people in a predicament seek out others in the same situation to satisfy their craving for giving and receiving sentiments, for communications, and for the reassuring effect of sharing an opinion. If the predicament continues, it is highly likely that socialized individuals will form groups which will allow them to take collective action. [Webber, R. 1975]

The "dismay and disillusionment" reported by the Defense Manpower Commission appears to have had a socializing effect on the members of the armed forces and seems to be

stimulating a need for collective action. If a perceived need for collective action persists or increases, what type of collective action group will military personnel use to insure that they are "fairly and equitably treated"?

#### A. PROBLEM STATEMENT

Past analyses of collective action in the armed forces of the United States have focused on only one type of group through which collective action can be achieved -- military unions. These analyses have centered on a comparison of conditions conducive to the formation of Western European military unions with conditions present in the United States. These analyses have also compared the formation of civilian Federal employee unions to the military situation including the executive and legislative actions which made their formation possible. In general, the problem which these studies have attempted to solve has been twofold: (1) to determine the overall effect of would-be military unions in the United States; and, (2) to determine the probability that military unions will be formed in the United States. These issues will be touched upon in this thesis, but are covered only as an adjunct to the main issue upon which this paper focuses -- military collective action. The problem which this paper will explore is: What are the viable means by which the United States military can take collective action? While the answer to this question is the main objective of this paper, answers to four other closely related problems will also be sought. These questions are:

1. What factors have stimulated the need for collective action in the armed forces of this nation?
2. What viable types of collective action groups exist?



3. What barriers will inhibit various types of military collective action groups in this country?
4. What types of collective action groups will be available to fulfill the collective action needs of United States military personnel for the foreseeable future?

#### B. DEFINITIONS

Certain terms will appear repeatedly throughout the text of this thesis. In order to clarify their meaning and to preclude misunderstanding, the definitions below have been developed to assist the reader.

Collective Job-related Action: Any activity by two or more persons to interfere with the performance of a military duty. Activities included are: demonstrations, protests, picketing, slowdown, work stoppage, or strike. [Department of Defense 1977]

Civilian Leadership of the Armed Forces: Includes the President as Commander-in-Chief and the civilian leaders of the Department of Defense, as well as the Congress which has constitutional responsibilities to regulate and support the armed forces. [Defense Manpower Commission 1976]

U.S. Military Association: Any formal collective action group open to military personnel of the regular armed forces which has at least one registered congressional lobbyist and which maintains close liaison with the military services. It functions through lobbying, member letter-writing campaigns, and its ties with the military services. The association's primary and secondary

objectives are: (1) to improve the "people programs" of the armed forces and (2) to aid the services in fulfilling their hardware needs.

Military Collective Action Group: Any formal or informal collection or assemblage of military personnel who have joined together to achieve one or more social and/or economic objectives which would affect terms or conditions of military service. This term covers the entire spectrum of groups which could be formed for this purpose. At one end of the spectrum would be found a group consisting of not less than two service members who have informally joined together to voice a common position concerning a military related matter which they support or oppose (for this definition to apply, this mutual position must be conveyed up the chain-of-command or directly to a member of the Executive Branch or Legislative Branch of the Government). Near the other end of the spectrum would be military unions. Between these two extremes would be military associations.

Military Institutional Benefits: Non-cash compensation (food, housing, medical, uniforms, etc.), subsidized consumer facilities, payments to service members partly determined by family size, and a large proportion of compensation received as deferred pay in the form of retirement benefits. These benefits are often referred to as "people programs." [Moskos 1973]

U.S. Military Union: Any formal collective action group open to military personnel of the regular armed forces which has at least one registered congressional lobbyist. It functions through lobbying, member letter-writing campaigns, and collective bargaining. The union's objectives are to improve the working conditions and pay of its members. Legally, it is not allowed to take collective job-related actions such as a strike to achieve its

objectives.

Two of the above definitions, military associations and military unions, have been purposely structured to reflect not only a possible "real world" situation but also to allow for ease of comparison between these two forms of collective action groups. For these reasons, the association definition is modeled after six of the more aggressive military-oriented groups that call themselves military associations. For the same reasons, the military union definition is modeled after the conservative Federal sector civilian employee unions which are restricted from certain union activities; this type of union has been used as the military union model because, logically, one could not expect a military union to be allowed a broader range of union activities or to be more liberal than existing Federal sector unions.

## II. FACTORS STIMULATING COLLECTIVE ACTION

Just 10 years ago the idea that many military personnel would one day feel a growing need to take collective action against the leadership of the armed forces was not only unheard of but was also unthinkable. During the intervening time-span many things have changed to cause the subject of military collective action in the form of military unions to gain national attention and to become one of the more serious manpower problems facing the military establishment today.

What factors have caused this change? Three factors which seem to have been the most influential are: societal forces, reduced satisfaction of the safety and security need (i.e., increased uncertainty regarding the level of future compensation and benefits), and linkage of civilian and military pay in the Federal sector.

### A. SOCIETAL FORCES

Since 1945, the armed forces have been increasingly involved in an endless process of adjustment to countless changes in the world. Today the armed forces differ greatly from the forces fighting in World War II or the Korean War. Indeed, little in the way of comparison remains. However, the greatest changes have occurred in the armed forces' role in society and in its manpower requirements. Today the armed forces are expected to play a part in achieving the nation's social goals by: (1) helping to improve the



economic standing of the disadvantaged segment of the population; and, (2) changing prejudiced attitudes regarding race, creed, and religion. While playing a key part in achieving the nation's social goals, the services must also concern themselves with attracting brighter and more highly educated personnel than ever before to man the increasingly complex weapons systems that are being developed and put into service.

In addition, great changes have taken place in the people who man the nation's defenses. Their needs, wants, and aspirations have altered to the point where these are more a reflection of contemporary society than the military society of their predecessors.

Dr. Charles C. Moskos, one of the foremost military sociologists, has hypothesized that these changes are evidence of a growing convergence between the military and civilian forms of society. Inducing this convergence, according to the hypothesis, are technological advances which have led to the development of sophisticated weapons systems. Moskos believes that these systems are having a great social effect on the armed forces because they give rise to not only a need for increased technical proficiency, but also for managerial and modern decision-making skills of the type used by large civilian corporations. In turn, the use of civilian developed decision-making skills by the military is causing a trend away from authority based on "domination" and toward a more civilianized managerial philosophy which places greater stress on persuasion and individual initiative. [Moskos 1973]

Assuming this hypothesis is correct, military society could be expected to take on increasingly the characteristics of civilian society. To some, these civilian-related characteristics are already apparent.

Included are: an increasing pressure for wider participation in decision-making by junior officers and enlisted personnel [Krendel 1975]; a growing egalitarian ethic among enlisted personnel [Atwies 1976]; a growing tendency for military personnel to think of themselves as specialists and to maintain a commitment to their specialty or trade instead of the general military profession [Hartley 1969]; and, the blurring of what is strictly a military function and what is not, as civilians perform an ever-increasing number of traditionally military tasks [Famiglietti 1975].

But, is military society really converging with civilian society or just following along behind? Another and more persuasive view articulated by Colonel Jennings, USA (Ret.), contends that the changing characteristics noted above are quite likely the manifestation of a long existing relationship between civilian and military societies. This relationship, simply put, means that as the norms of the more liberal civilian society have changed, they have dragged along the lagging norms of the more conservative military society. Therefore, what has been hypothesized as a liberalized military society on the verge of colliding with civilian society is in all likelihood an evolutionary process that has been going on for a very long time. [Jennings 1976]

A key point of the Jennings article is that the distance between the two societies is not rigidly fixed but is elastic. The elasticity characteristic of the relationship between the two societies -- military and civilian -- has been exemplified by a significant change which caused the existing interval to shorten during this decade. This change was brought about by the implementation of the all-volunteer force concept and a resulting alteration in the notion of why one serves in the armed forces.

Probably more than any other event, the termination of the selective service system and the implementation of the all-volunteer concept has had the most dramatic effect on the military society in the past quarter century. Despite the fact that this concept was brought into being as a political expedient, Dr. Janowitz, an eminent military sociologist, views its implementation as an inevitable step in the sociological evolution of the armed forces [Janowitz 1977].

Accompanying the advent of the all-volunteer force was a change in the traditional notion of patriotic service in the armed forces of the nation. Today, this notion has almost completely disappeared. Two factors which share the blame for this social change are: (1) the anti-military sentiment which developed as a result of the anti-war movement of the Vietnam era; and, (2) an increasing lack of creditability in the need for a large-standing armed force in an era of detente [Taylor, J. 1976]. However, the primary factor that caused this change was the method by which the all-volunteer force was recruited.

Starting in the early 1970's, the Federal Government began following one of the recommendations of the President's Commission on an All-Volunteer Force. This recommendation called for the placing of primary reliance on monetary incentives based on marketplace standards to recruit a volunteer force instead of the traditional institutional benefits. The Commission's recommendation stated:

. . . We have decided against recommending general increases in such benefits. . . . We have done so . . . because we believe that general increases in such benefits in non-cash pay would be an inefficient means of compensating military personnel. [Gates Commission 1970, p. 63]



Currently, a widely held belief by military sociologists is that this approach to recruitment has changed the idea of military service from a "calling" to that of a "job like any other." To explain the implications of this belief and the meaning of this change, it is necessary to understand the institutional and occupational models of the military society.

The institutional model or "calling" has been the traditional social model of the armed forces. It portrays military-man as dedicated to values -- duty, honor, and country -- which transcend individual self-interest in favor of a presumed higher good. Also, military-man is depicted as regarding himself as being different from those not in his profession and in a separate society from the prevailing society of the nation -- a view shared, in general, by the nation. Associated with this model are notions of self-sacrifice and complete dedication to one's role which is rewarded by high esteem from the nation. Even though cash pay comparable to that which would be expected in the economy of the marketplace is not obtained, the deficiency is offset by social esteem and institutional benefits made available through a paternalistic remuneration system. When grievances are felt, military-man does not organize self-interest groups. Rather, if redress is sought, it is dealt with on a one-on-one basis between the individual and his superior. Implied in this method of solving grievances is a trust in the paternalism of the institution to take care of its own. [Moskos 1977]

The occupational model portrays military-man as seeking monetary rewards equivalent to those found in the economy of the marketplace. His salary system incorporates basic pay and institutional benefits of a "calling" into one lump sum cash payment. He has rights in determining an appropriate



salary and working conditions. These rights are counterbalanced by responsibilities to meet a contractual obligation. Military-man's first priority is self-interest rather than the task itself or the particular branch of service to which he belongs and he is seen as advancing his self-interests through the union form of collective action.[Moskos 1977]

Dr. Moskos believes that the trend in the armed forces today is away from the institutional model and towards the occupational model. Since the common form of advancing interests in the occupational model is the union form of collective action, this implies an increasing likelihood of it becoming the dominant form of collective action in the military.

Moskos's view has been endorsed by Air Force Chief of Staff General Jones. The General, like Moskos, sees a fundamental shift in motivation from a "calling" toward an occupation where the first priority is self-interest rather than the organization. This trend, he believes, could lead to military unions. [Jones 1977]

The General Counsel of the American Federation of Government Employees seems to have echoed these views in an interview in which he stated:

It's a volunteer Army, and that means people are selecting a military career as a means of livelihood and not for patriotic reasons. Servicemen today aren't responding to an attack on the country. They want to be paid. [Parnell 1977, p. 19]

To support his belief, Dr. Moskos has identified a number of indicators which he believes reveal a trend toward the ascendancy of the occupational model and the likelihood of military unions in the social organization of the all-volunteer armed force. Among these indicators are:

1. The significant pay increases given to the armed forces since 1971 in an effort to make military compensation competitive with civilian rates
2. Recommendations by government panels to establish a military salary system
3. Proposals to eliminate or reduce an array of institutional benefits
4. The separation of work and residence locales by a growing proportion of single enlisted members of the armed forces who are living off-base
5. The incipient resistance of many military wives at the officer and noncommissioned officer levels to taking part in customary social functions
6. The high attrition and desertion rates among enlisted personnel [Moskos 1977]

#### B. LINKAGE WITH CIVILIAN FEDERAL EMPLOYEES

A second force stimulating the formation of military collective action groups, particularly of the union variety, is the linkage of military and nonmilitary pay systems in the Federal sector.

In 1962, the Federal Salary Reform Act was adopted for the General Schedule and the principle of comparability went into effect. The application of the comparability principle to the wages paid to General Schedule employees seemed a rational approach to setting compensation since it aligned the General Schedule with the private sector's pay scale. [Spaith 1976]

In 1967, Public Law 90-207 came into being and brought with it the present method of annually adjusting the level of military compensation. The law rigidly linked the military pay schedule with the General Schedule. Since 1967, several modifications to the original act have been made. [Defense Manpower Commission 1976]

Under present legislation, the Director of the Office of Management and Budget and the Chairman of the Civil Service Commission have been designated by the President to act as his Pay Agent. The Pay Agent prepares an annual report based on surveys by the Bureau of Labor Statistics comparing Federal and private enterprise salary rates. After consulting with a five-member Federal Employees Pay Council and other employee organizations, the Pay Agent's recommendations and the views of employee organizations are reviewed by a three-member Advisory Committee on Federal pay and then sent to the President. The President may accept the recommendations, in which case, they become law. [Defense Manpower Commission 1976]

If a national emergency or economic conditions affecting the national welfare exist, the President may submit an alternate plan to Congress in lieu of the required comparability adjustment. The alternate plan, if submitted, becomes law unless a simple majority of either house passes a resolution of disapproval within a limited time period. [Defense Manpower Commission 1976]

Since passage of comparability legislation, there has never been a direct attempt by the President to adjust the pay schedule submitted by his Pay Agent. However, the President has submitted alternate pay plans to Congress which have had the same effect. [Spaith 1976]. The submission of these alternate plans will be discussed later in this chapter.



Section Eight of Public Law 90-207, the Section providing linkage, is known as the "Rivers' Amendment" and was named after Representative Mendel Rivers, Chairman of the House Armed Services Committee and foremost "champion of the military." Little could this staunch conservative from South Carolina have ever imagined that one of the many measures which he pushed through Congress in the best interest of "our service boys," would provide the link that would eventually cause organized labor to see the non-unionized millions in the armed forces as a logical extension of their membership.

The specific spark which ignited the fire was President Ford's alternate pay plan for the 1974 pay increase. In a 1975 interview, the since deceased President of the American Federation of Government Employees (AFGE), Clyde M. Webber, described the events which led his union to start seeing the military as a potential membership source as follows:

. . . [In] 1973, the President was apparently fascinated with this device of picking off half a billion dollars. If you give a four percent increase in pay and you defer it for 90 days, that's equivalent to one percent, which is nearly 400 million. . . . Then each year they say, well, here's a little way to get some money back into the Treasury, regardless of what the equities of the situation are. . . .

We went to the Senate that year and we got about an 85-14 vote rejecting his alternate pay plan, and we got our pay increase on time. In 1974, when President Nixon resigned, we breathed a little sigh of relief. . . . At that time, the inflation rate was 12 percent a year. And you can imagine what [the administration] came up with -- 5.5 percent. With Ford in office less than two weeks, the statutory deadline [for pay increase] came, and his financial advisors recommended to him that he defer. So he deferred.

And here we have a new President on a honeymoon with the voters and the Congress and we were quite concerned, extremely concerned. So I got to thinking about it. And I thought, well, hell, you know, we're not the only ones affected by this, maybe we could get a little help from the military personnel. So I drew up a handbill -- two of them -- one of them directed to our members and other civilian employees in the Defense Department, and another one directed to the military. . . . Time was very short. We had 30 days to do this whole thing. We needed to get 51 votes in the Senate [to stop the pay deferral].



The people on Capitol Hill tell me that there was a fabulous response on the part of the military personnel to not having their pay increase set back. . . .

That's all there was to it. We didn't ask them to join us or anything of that nature. Simply that it was in their own self-interest that they should take some action. So after this experiment with a little cooperation and finding that cooperation was mutually beneficial, then we had some little conversations here and there. . . . And we're representing these folks as far as their pay is concerned and there may be other areas where we can have mutual interests. [The Times Magazine 24 September 1975, p. 24, 43]

The significance of this historic event -- defeat of the 1974 alternate pay plan -- is that for the first time, a major labor organization had shown interest in members of the military establishment and had in fact called upon the armed forces rank and file for support. Also, for the first time and probably of equal significance, military personnel showed widespread interest in and support for a union lobbying campaign.

Almost immediately the AFGE followed by other unions, primarily those in the public sector, implemented a campaign to win support for the unionization of military personnel. To the unions this was a rational course of action for several reasons. First, since linkage in 1967, military personnel have been "free-riders" on all incremental pay increases won through the lobbying efforts of the unions; incremental increases which are, in the opinion of the unions, over and above that which would have been otherwise provided by the Federal Government. Second, the military establishment represents the last untapped labor pool in the United States which has not been unionized to at least some degree. This is an important consideration since union membership and resultant revenues have fallen off significantly during this decade. Finally, a unionized armed forces would provide additional weight to union

lobbying efforts through their added numbers and would cause Congress and the nation to take Federal employee unions more seriously than they have in the past. [Ewing October 1976]

### C. REDUCED SATISFACTION OF THE SAFETY AND SECURITY NEED

In addition to societal forces and linkage, there is a third reason which is providing service people with the impetus to join collective action groups. This is the reduced satisfaction of the safety and security need.

Maslow's basic hierarchical need model with its five graduated levels of psychological needs serves well as a frame of reference. Commencing at the lowest level with physiological needs, the hierarchy transcends four levels identified as the need for safety and security, love and affiliation, self and social esteem, and finally, the need for self-actualization. As one's needs at a particular level are satisfied, primary attention is then diverted to fulfilling the next higher level need. [Webber, R. 1975]

Generally, a failure on the part of the military and civilian leadership of the armed forces to satisfy the safety and security need will have a negative affect on morale. This failure can develop, in the individual, the underlying belief that his environment is at best capricious and at worst malicious. The usual method of circumventing this unfulfilled need is to enter into a relationship with a collective action group which is able to guarantee a reasonably secure life. [Webber, R. 1975]

Presumably, the average military member has satisfied his physiological needs -- food and shelter -- even if some members qualify for relief and food stamps. However, full

satisfaction at the next level in the hierarchy is not being achieved by a large segment of the armed forces. [Grebeldinger 1976]

This has occurred because military personnel have increasingly developed the perception that a hostile government attitude toward their pay and institutional benefits exists. They have come to believe that their pay is a political football and that the highly touted parity with civilian pay scales is a myth. To them, it has become obvious that the traditional paternalistic attitude of the Government is out of vogue. With no one to plead their case and to protect their interests, they have rationally concluded that their only recourse is a powerful collective action group, such as a union, to protect and advance their interests. [Grebeldinger 1976]

These perceptions are being caused by: (1) inadequate communications; and, (2) apparent attitudes of top level management within the Department of Defense, of Congress, and of the President. To understand how these perceptions have come about, this chapter next describes the events leading to this development.

#### 1. Inadequate Communications

One of the primary responsibilities of the military and civilian leadership of the armed forces is the establishment and utilization of a communications system. Communications with subordinates are the medium through which the leadership directs the efforts of the military. By means of its communications the leadership defines the goals of the military establishment. These goals tell subordinates what is expected, what resources are available and how well they are doing. The communications from the

leadership are the foundation upon which the subordinates are able to build a stable military establishment. Without an ample flow of communications from the leadership, subordinates cannot know what the situation is, which direction they should be going or how well they are performing. Without good communications subordinates are in an insecure position. [Haire 1964]

The Defense Manpower Commission has identified communications as a major problem that exists within the military establishment. The Commission has pinpointed the location of this problem as being between the leadership of the armed forces and the units in the field. This problem has had a great impact on the pay and institutional benefits issues. The Commission found that this problem has caused members of the armed forces to feel disillusioned and dismayed by what they perceive to be disinterest, neglect, or a breach of faith on the part of their Government.

This breakdown in communications has resulted in a disjointed incremental approach to personnel problems by the military and civilian leadership of the armed forces and the results have been unsatisfactory. The Commission believes the policy of changing one element of the personnel policy without considering its impact on other elements has led to adverse consequences that were predictable and should have been anticipated. [Defense Manpower Commission 1976]

Another view, held by a few members of Congress, public officials, and military leaders, has laid the blame for inadequate communications on uniformed leaders of the military establishment. Advocates of this view believe that if the military leadership fully informed its people, in a supportive and positive way, as to just how fair the pay and benefits programs really are, the erosion of benefits issue would rapidly subside. Chief of Naval Personnel Vice



Admiral Watkins does not believe this is possible at the present time. He has responded to this view before the Senate Armed Services Committee by stating:

That, in my opinion, is an oversimplified view which does not recognize the real issue at hand; that is, apprehension over future changes which no one at this time can describe, let alone defend. With the Defense Manpower Commission, the Third Quadrennial Review of Military Compensation and now the President's Blue Ribbon Panel, all investigating changes to the military compensation system, it would certainly be premature, if not impossible to assure our people that their future security apprehensions are unfounded. Such assurances at this point would have little creditability. [Watkins 1977, p. 7]

Captain Schratz, USN (Ret.), disagrees with Vice Admiral Watkins and believes that important benefit improvements have gone unnoticed as a result of neglectful military leaders. He cites as an example the Survivor Benefit Plan which markedly improves the serviceman's ability to guarantee his family an income should he die while on active duty or after retirement. Even though "no civilian agency can match" this plan, according to Schratz, less than half of the service personnel eligible (1.2 million) have elected to participate, with the lowest percentage of participation among enlisted members. This has been caused, Schratz believes, "largely through misinformation and a failure to understand." [Schratz 1977]

One officer who had been highly supportive and positive of pay and benefit programs and had communicated this view to his subordinates during his career of 40 years was Major General Sparrow, USA (Ret.). However, by 1975, he had become so disillusioned with the trend in overall compensation that he published an open letter of apology to those he had urged and influenced to follow a military career. In his letter, he cites an unwritten contract between the soldier and the Government that has been predicated on mutual promises -- promises that have been broken. He points out that it is not the loss of benefits

that is important, but, "the undermining of that basic trust and confidence in authority which is fundamental to the effectiveness of our nation's armed forces." [Sparrow 1975]

The Defense Manpower Commission has concluded that the solution to the inadequate communications problem must be based on a restoration of credibility in the Government and its personnel policies and practices, and improved confidence of the armed forces in their leadership in Washington. The Commission points out that achieving stability in manpower and personnel policies and practices will go a long way in achieving this goal. The Commission believes:

Personnel policies and practices important to the individual should not be changed without adequate explanation and should be altered only in the context of a total review of policies and practices, taking into consideration the consequence of proposed changes. When a policy decision is heavily influenced by cost considerations, this should be stated openly, explained, and not obscured by promises. Members of the armed forces will appreciate this candor. [Defense Manpower Commission 1976, p. 61]

Senator Thurmond in a recent article stated a very similar and compatible view:

The creditability of the leadership needs to be restored. Budget considerations must be given due weight, but keeping faith and telling the truth comes first. When unpopular decisions must be made, we must be prepared to explain why. Honesty should replace guile. Our military people have always recognized, respected, and accepted the truth. [Thurmond 1977, p. 25]

## 2. Attitudes of Top Management Within DoD

Although the ending of conscription was viewed as a wise move by many, it brought with it a problem -- greatly increased manpower costs -- which was either disregarded at the time or was not considered important. In turn, sharply increased military manpower expenses activated one of the

key factors leading to an increased interest in collective action. This factor has been the failure of top civilian managers of the Department of Defense to give proper weight to the human element in their understandable preoccupation with much-needed weapons modernization. According to the Executive Editor of The Retired Officer, they have yet to "grasp the idea that a career in the military service is unique and that, unlike most jobs with civilian corporations, it requires complete dedication and loyalty on the part of the individual and involves the entire family as well." [Lien 1975]

Since 1968, the Secretary of Defense has watched manpower costs increase from 42 percent to 58 percent (estimated) of the defense budget in 1977. This increase occurred despite a 37 percent reduction in civilian and military manpower during the same period. [Defense Manpower Commission 1976]

Faced with general spending constraints, inflation, and a continuing need for more modern and ever more expensive weapons systems, the Secretary of Defense determined as early as 1972 that rising manpower expenses would have to be cut. From a budgetary viewpoint, it was determined that this was the only acceptable alternative which would allow significant numbers of dollars to be freed for needed hardware. Since manpower had already been cut by a 37 percent reduction in force, further cuts in the numbers of personnel was considered infeasible. This left overall compensation as the only choice available.

The tampering with overall civilian compensation was not possible due to numerous safeguards, contractual arrangements, and Executive Order 11491, as amended, which enabled Federal civilian employees to collectively bargain



through their labor unions. This left only the overall compensation paid to military personnel as the area available to be cut.

Many of the measures studied or adopted affected institutional benefits. Although military personnel had long viewed these benefits as entitlements which were implicit parts of an implied military contract, the Secretary of Defense increasingly began to attack these entitlements. The Secretary's view was that these benefits were not in perpetuity and certainly not contractual rights [Taylor, W. 1976]

Although well-intentioned and designed to improve national defense within given constraints, the policy of cutting manpower compensation to free dollars for hardware needs failed to consider the most valuable weapon system in the Department of Defense inventory -- the individual service member. This may have occurred either because of "isolation", a not uncommon problem of top level management in a large hierarchical organization, or an insensitivity to the effect that this policy would have on "the spirit of the organization" [Drucker 1954]. Had the Secretary understood the true cost-benefit relationship between reduced morale and manpower compensation dollars saved, it is possible that another alternative would have been found.

However, as the intentions of top-level defense planners became clearer, the defense establishment divided into two groups. The first group supported and still supports the reductions in overall military compensation and is made up of the Secretary of Defense and his staff. They have taken what many have viewed as the "us against them" approach to solving the manpower cost problem. This is the



same approach which has been used by big business many times in the past and has been the inspiration behind the unionization movement in the private sector.

The service secretaries, supported by the service chiefs, generally take the opposite view. They have acted as ombudsmen for military personnel and take the view that the current piecemeal approach of reducing overall compensation is improper. However, they do believe that if and when such cost reduction measures are necessary, the reasoning behind the changes should be fully explained to service members. [Shoemaker 1977 and Callander 1977]

The disagreement between these two opposing groups has repeatedly boiled over into public view. The first major confrontation occurred in 1974 when Secretary of the Navy Middendorf challenged Secretary of Defense Schlesinger to show proof of his commitment to service members. Middendorf believed that Schlesinger lacked commitment because of 14 benefits which had been reduced under his leadership. [Farrington 1976]

In 1975 Assistant Secretary of the Navy Beaumont told the Defense Manpower Commission that the Defense Department was fantastically naive about what service members will suffer. He considered it a perplexing phenomenon that the members of the armed forces had not previously organized a union. [Schweitz 1975]

The disagreement continued in 1976. Speaking before the Senate Armed Services Committee, Assistant Secretary of the Air Force Taylor expressed his concern over top level Department of Defense policies:

We are nickel and diming our force into a great morale problem. I don't blame the force for being concerned. . . . I agree [that the] piecemealing of benefits has created a problem. We have to do a better job with our people. . . . The people we have . . . don't join the force because of the money involved. They join for a variety of reasons

and they desire to be treated fairly. [Air Force Times 16 February 1976, p. 3]

In a 1977 Navy Times article, former Assistant Secretary of the Navy for Manpower and Reserve Affairs Hittle questioned the intent of the Secretary of Defense's action to combine the office of Assistant Secretary of Defense for Installations and Logistics with the office of Assistant Secretary of Defense for Manpower and Reserve Affairs. He believed that this action was a downgrading in importance of military manpower at the highest level in the department. [Hittle 1977]

By February 1977, the service secretaries had become very concerned that the Secretary of Defense's policies toward military manpower and overall compensation were causing a morale problem. As a result, they asked that he call a moratorium on military pay and benefits. In so doing they joined the Joint Chiefs of Staff who had made a similar request of the President the year before. [Shoemaker 1977 and Callander 1977]

Spokesmen for the Secretary of Defense have acknowledged that morale among military personnel has suffered as a result of yearly piecemeal reductions in long-standing benefits and arbitrary changes in the military pay system. However, they believe that neither budget management responsibilities can be abdicated nor overall compensation changes be halted. [Ewing and Stevens February 1976 and Callander 1977]

Regardless of the actual support for military pay and benefit programs at the highest levels in the Department of Defense, this final view by Defense spokesmen appears to be the one that many military personnel see as the dominant one. Views of this type are the ones upon which service

members have based their perceptions of a nonsupportive military establishment.

### 3. Congressional Attitudes

The Constitution, Article 1, Section 8, charges Congress with the responsibility of raising and supporting the nation's armed forces. Historically, this is a role that Congress has not taken lightly. Lieutenant Colonel Quinn, et al., described the traditional role that Congress has played in its relationship with the military as paternalistic. For over 200 years:

. . . a paternalistic system has developed within which members of the military service have enjoyed a direct Congressional interest in their total welfare. The United States Government has historically provided for wages, housing, and rules for treatment of the members of the armed forces, and has taken an interest in the social welfare of the servicemen. Indeed, 'champions of the military' have long existed for the American fighting man . . . [Quinn 1971, p. 52]

After the Vietnam war, however, Congress's paternalistic attitude was replaced by skepticism. This new attitude was a reflection of the prevailing feelings of the nation toward the armed forces. It became stylish for politicians to ridicule the military establishment and "the military-industrial complex." As a result, the traditional areas of support for the military began to disappear. [Rice 1974]

Successful assaults on the seniority system by young liberals in Congress removed long-standing and powerful advocates of the military, such as Congressman Hebert from his position as the Chairman of the House Armed Services Committee [Hefti 1977]. Skepticism and changes in the membership of Congressional Armed Services Committees

brought numerous proposals to reduce the traditional institutional benefits of military personnel to the floor of Congress.

The proposed changes were viewed by many service members as part of a relentless attack on their livelihood and prestige. To them, these benefits have a symbolic significance that is far in excess of their dollar value and their continuation represents a symbolic expression of national appreciation [Kahn, 1974]. In 1976, the Defense Manpower Commission recognized this fact. They warned that changes to the institutional benefits would have a far-reaching impact on the ability of the armed forces to attract and retain personnel because of their effect on morale and sense of identity of military personnel. [Defense Manpower Commission 1976]

However, in an attempt to gain stature, prestige, and win votes in the next election, this fact has gone largely unnoticed by some members of Congress. This group of legislators has loudly vocalized their support for proposals which would cut institutional benefits enjoyed by service members. Their approach has been effective in at least two ways. First, it has caused the Air Force Times, Army Times, and Navy Times to give broad coverage to the legislators' stand. Second, it has lowered the morale and sense of security among members of the military by giving them an uncertain picture of the future. The second effect has remained largely unaltered even when, as in numerous cases, the proposed legislation later dies in Congress.

The disenchantment of service people with Congress has been played upon by collective action groups such as military associations and labor organizations. Through



lobbying efforts, the media, and other means available, these groups have made this dissatisfaction known to Congress.

Continually bombarded by complaints from these collective action groups and the individual serviceman himself, Congress has apparently split into several factions over the issue of armed forces institutional benefits. One faction has become hostile toward the armed forces and expressions of dissatisfaction from the military ranks. An example of this sentiment was expressed by Representative Stratton in 1975:

. . . I am getting a little tired of this constant allusion to contractual rights when it comes to military benefits. The fact is that money for defense is getting harder and harder to come by here in Congress. . . We can't get enough money to maintain our basic defense posture. . . . We are running into the same situation here that we found in New York City. While the mayor and the governor were in Washington begging for financial assistance, some of the city's unions were threatening to tie the city up with a general strike because they were not getting the annual cost-of-living increase called for in their contracts. . . . How can one possibly insist on maintaining the status quo without any change when there isn't even enough money to pay for the basic operations? . . . [Stevens 1975, p. 14]

Senator Goldwater, responding to this type of view, has said he believes that congressmen who have urged a reduction in military benefits to save money are hypocritical since "no group in the United States has more fringe benefits than congressmen." [Cooper 1976]

Representative Davis believes the dissatisfaction in the armed forces and the erosion of benefits issue has been caused by the press. He has stated that:

If you can take the Army Times, the Navy Times, and the Air Force Times off installations, you wouldn't have any of this stuff [about erosion of benefits]. All you have to do is have one person say one word and all of a sudden newspapers call it erosion of benefits. . . . If you take those [service newspapers] off the newstracks, you can save wasting a lot of time. . . . [Navy Times 25 July 1977, p. 17]

Another congressional faction understands that there is disenchantment among the ranks of the service members but, according to the Navy Times, has missed the point and is looking into ways to improve the grievance procedure within the military establishment as the key solution to the problem. The newspaper has concluded that military personnel are much less worried about representation under the Uniform Code of Military Justice or inspector general system than they are about the security of their future in the military. [Plattner 1977]. This view was substantiated by Master Chief Petty Officer of the Navy Walker during his appearance before the House Military Personnel Subcommittee [Navy Times 15 August 1977].

A third congressional faction has continued the historic paternalism mentioned earlier. The goal of this faction is to develop a rational and stable system of pay and benefits that is fair not only to the servicemen but to the taxpayer as well. [Plattner 1977]. Senator Thurmond, a leader of this faction, believes:

. . . Servicemen regard their government as insensitive to their problems and unresponsive to their needs. Frustrated and disillusioned, they have become susceptible to the wiles of self-interested union advocates. . . .

This problem of morale must be faced immediately. Loyalty must go from the top down as well as from the bottom up. Our military service members have a right to expect loyalty from the commander-in-chief, Congress, and the uniformed leadership of the armed services. [Thurmond 1977, p. 24]

Even though there are staunch supporters of military personnel in Congress, the message that members of the armed forces are receiving is that Congress is indifferent or hostile to their needs. The Defense Manpower Commission has pointed out that, for whatever the reason, servicemen feel that their benefits are in jeopardy, and their "trust and confidence in the system [has] been shaken to the point where legislation may be necessary to restore it." To accomplish this, the Commission suggests that a

"Serviceman's Bill of Rights" to specify and guarantee service benefits may be necessary. To date, this suggestion is not being seriously considered in Congress. [Defense Manpower Commission 1976]

#### 4. Presidential Attitudes

Successful commanders at all levels have learned that to obtain the most out of their subordinates, they must maintain a vigilance over the subordinates' welfare and must be a loyal supporter of the means to satisfy their needs. In turn, the commander gets loyalty and support. Actions of the President in recent years have caused service members to have doubts concerning the Commander-in-Chief's support of their needs. The most obvious and clear-cut example of the President's questionable support is his stand on compensation in recent years.

In 1971, President Nixon submitted the first of five alternate pay plans to be put before Congress during the Nixon-Ford Presidential reign. The first four attempts at altering the Pay Agent's proposed pay schedule, by delaying increases beyond the date established by law, were overridden. One of these attempts was overturned through court action and the other three were defeated in Congress. In 1974, the Advisory Commission on Federal Pay, composed of members not employed by the Federal Government, expressed its concern over repeated attempts by the President to delay or reduce the annually revised pay schedules. The Commission stated: "It is imperative that an alternative plan be invoked only under extraordinary circumstances as an exception rather than the rule." [Defense Manpower Commission 1976]

President Ford decided to disregard the advice of the Advisory Commission and in the very next year, 1975, submitted the fifth alternative pay plan to Congress. This plan was successful because Congress took no action. It consisted of a five percent across-the-board increase instead of the 8.66 recommended by the Pay Agent. [Defense Manpower Commission 1976]

The President's past actions on compensation have been viewed with concern by members of the armed forces. They have perceived an unfairness in these actions and a contradiction in the term, equity. They have seen federal legislation established to achieve compensation parity with the private sector. At the same time, they have seen the President demonstrating greater concern for matters other than comparability. For the future, they fear that they will continue to suffer inequality with workers in the private sector. This fear is reinforced daily by comments from officials of the government. Upon submitting his 1976 budget to Congress, President Ford declared that he had "carved personnel spending to the bone" to gain funds for military hardware. [Cooper 1976]

The President's stand on past pay increases and its effect on the morale of the armed forces moved the Joint Chiefs of Staff in 1976 to appeal to the Commander-in-Chief for a one-year moratorium on compensation adjustments which the members of the armed forces perceive as unfair [Callander 1977]. Despite this plea and a 1977 plea by the service secretaries for a moratorium, President Carter has identified military compensation as one area that he intends to look deeply into to reduce defense costs [Hefti 1977].



### III. LEGAL ENVIRONMENT

Several significant factors impact on the legal environment in which service members can take collective action. This environment is not stable and is constantly changing over time as are the norms of American society. Effecting this changing environment are laws passed by Congress and approved by the President, presidential and Department of Defense regulations, and decisions of the courts. Since the United States is a democratic republic, it must be assumed that these laws and regulations reflect the will of the people or, at least, what their elected officials have determined is best for the nation. However, in the end, the Constitution and the decisions of the Supreme Court have the final say regarding the constitutionality of various laws and establish the legal environment at a specific point in time. The words, "specific point in time," must be emphasized since both the Constitution and the decisions of the Supreme Court have changed over the years to reflect the norms of the nation.

The degree to which military personnel can take collective action and the groups which they can join to achieve collective action are restricted to a far greater extent than any other segment of the nation's population, except for those incarcerated for various crimes. To understand the rationale behind the limits placed on the constitutional rights of service personnel and to determine the extent to which they can take collective action, this chapter examines: (1) the rights of each citizen provided by the First Amendment; (2) some of the more important court decisions which are relevant to understanding the court

system's position; and, (3) the restrictions placed upon the constitutional rights of military personnel by the Congress, the President, and the Secretary of Defense.

#### A. THE FIRST AMENDMENT

The First Amendment indicates that, "Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof; or the right of the people peaceably to assemble, and to petition the Government for redress of grievances." The Supreme Court has held that the First Amendment is the cornerstone of the American democratic system of government [New York Times v. Sullivan 1964] and has subjected laws and even executive decisions which have the force of law to intense scrutiny to assure there is no abrogation of its intent [Webber, C. 1975].

In the United States, the military establishment is unique because its uniformed members are subject to a dual system of military and civilian jurisprudence. Regardless of this fact, First Amendment rights still apply to service personnel. However, a recognized legitimate necessity can and does restrict these rights. For example, when a compelling state interest, such as providing for the common defense, would be placed in jeopardy, the rights of service personnel must give way. This constraint requires the courts, in arriving at their decisions, to strike a balance in determining the extent to which the rights of military personnel are restricted. [Grebeldinger 1976]

Balance is difficult to acquire and maintain. This is because the interaction of circumstances and the relative magnitude of competing interests is a dynamic process in which many interdependent variables are simultaneously

considered. Further complicating the situation is the fact that the outcome can have an impact on national security. As a result, the courts have included in their rulings the concept of military necessity which roughly means that the aforementioned variables have been taken into consideration in an attempt to achieve balance. [Grebeldinger 1976]

A precise definition for the concept of military necessity is difficult to develop because factors such as time, place, and circumstances must be considered in determining the outcome of each case. The importance of words or deeds varies depending on these factors. For example, did the incident occur: overseas or in the United States; during peace or war; in the front lines or in the rear echelons; in front of civilians or service personnel; in civilian clothes or uniform; or, by an enlisted person or officer? These factors -- time, place, and circumstances -- combined with military necessity are balanced against an infringement of the individual's rights under the First Amendment. This is done to determine whether the rights of military personnel should be restricted by a higher need of the nation. [Grebeldinger 1976]

The concept of military necessity has been addressed on many occasions in military courts. For example, in 1967, the Court of Military Appeals applied this concept in reviewing a case involving an officer who carried anti-government signs in a Vietnam war protest march while off-post, off-duty, and in civilian clothes. In the Court's opinion:

We need not determine whether a state of war presently exists. We do judicially know that hundreds of thousands of members of our military forces are committed to combat in Vietnam, casualties among our forces are heavy, and thousands are being recruited, or drafted, into our armed forces. That in the present times and circumstances such conduct by an officer constitutes a clear and present danger to discipline within our armed services, under the (civilian) precedents established by the Supreme Court, seems to require no argument. [United States v. Howe 1967]

Over the past 25 years the Supreme Court has broadened the protection of the rights granted in the First Amendment to include an implied right -- freedom of association. This freedom was spelled out in a Supreme Court decision which held " . . . that if prospective laws place excessive, over-burdens on the protected exercise of Federal employees' freedom of association, Congress cannot enact said legislation, and less drastic means of affecting the freedom of association would have to be found" [United States v. Robel 1967]. As a result of this ruling, the courts have held that public employees, including para-military employees who have life and death responsibilities [Atkins v. City of Charlotte 1969] have the constitutional right to join labor organizations.

An outgrowth of the Robel and Atkins decisions is that Congress cannot prohibit the freedom of association of members of the armed forces except to the extent it can justify such limitations under "judicial precedents." For this reason, one school of thought contends that any statute or executive action which prohibited all military personnel from exercising their right of freedom of association -- joining military labor organizations -- would be constitutionally defective. [Webber, C. 1975]

The Army Judge Advocate General in a 1969 Department of the Army policy letter recognized that membership in labor organizations was included in the freedom of association right and available to military personnel. In part, the letter indicated: "In view of the constitutional right of freedom of association, it is unlikely that mere membership in a serviceman's union can constitutionally be prohibited. . . ." [Mossberg 1975]



Another school of thought contends that the separate society doctrine prevents the application of decisions from cases involving the rights of civilian government employees, such as the Robel case, to the question of the rights of military personnel [Thurmond 1977]. This doctrine resulted from a 1955 Supreme Court case involving a former serviceman who was arrested by military authorities on a charge of murder committed in Korea, while on active duty. In this case the Court observed:

This Court has long recognized that the military is, by necessity, a specialized society separate from civilian society. We have also recognized that the military has, again by necessity, developed laws and traditions of its own during its long history. The differences between military and civilian communities result from the fact that "it is the primary business of armies and navies to fight wars should the occasion arise." [United States Ex Rel Toth v. Quarles 1955]

For many years the Supreme Court has avoided ruling on the First Amendment rights of service personnel by deferring to Congress's constitutional authority to regulate the military [Taylor, W. April 1977]. This has been because the Constitution entrusts to Congress and the President the responsibility of running the armed forces. Therefore, the Court has been hesitant to interfere unless clearly defined judicial matters are involved [AUSA 30 December 1976]. This has made it difficult to fully evaluate the Court's stand on the rights of service personnel.

Although not easily evaluated, opinions of the Supreme Court in several relevant cases provide the essence of its position regarding the rights of service members. For example, in a 1953 case involving a drafted doctor who had refused to complete required forms and was then denied a commission, the Court stated:

. . . judges are not given the task of running the Army. The responsibility for setting up channels through which . . . grievances can be considered and fairly settled rests upon the Congress and upon the President of the United States and his subordinates. [Orloff v. Willoughby 1953]

Then, in a 1974 case involving an Army doctor who refused to train Special Forces medics and made public statements urging black enlisted personnel not to go to Vietnam, the Supreme Court indicated:

While the members of the military are not excluded from the protections granted by the First Amendment, the different character of the military community and of the military mission requires a different application of such protections; the fundamental necessity for obedience, and the consequent necessity for the imposition of discipline, may render permissible within the military that which would be constitutionally impermissible outside it. [Parker v. Levy 1974]

More recently, in a 1976 case involving candidates for national political office who had been denied permission to enter a military reservation for the purposes of campaigning, the Court further defined its approach to the rights of service personnel:

A military organization is not constructed along democratic lines and military activities cannot be governed by democratic procedures. Military institutions are necessarily far more authoritarian; military decisions cannot be made by vote of the interested participants. . . . [T]he existence of the two systems [military and civilian] [does not] mean that constitutional safeguards, including the First Amendment, have no application at all within the military sphere. It only means that the rules must be somewhat different. [Greer v. Spock 1976]

While the Supreme Court has expressed these and other opinions which are relevant, it has not, in the past, seen fit to interfere where military courts have had jurisdiction through the authority granted by Congress. Instead, it has left the military courts to safeguard the rights of service personnel [Taylor, W. April 1977].

In summary, it is noted that service personnel have First Amendment rights as do other citizens of the nation. However, due to a recognized legitimate necessity these rights are restricted. Since this is the case, one must ask to what extent can Congress restrict the rights of service

members in upholding what it sees as its constitutional responsibilities? And, how far can Congress go in limiting military collective action groups?

Congress is, of course, constrained by the Constitution from an over-zealous abrogation of the rights of service members under the First Amendment. Undoubtedly, the Supreme Court would strike down a broad constitutional decree prohibiting fundamental rights. Still the question remains: How restrictive would Congress have to be before the Supreme Court would step in and rule legislation unconstitutional? The answer is uncertain. However, in this regard, it is important to remember: the concepts of military necessity and separate society; the Court's reluctance to enter the realm of authority and rights in the military; and, the essence of the Court's position regarding rights of service personnel.

Currently, a bill is pending in Congress which would appear to overly infringe on the right to freedom of association of military personnel. If this bill eventually becomes law, it is highly possible that the Supreme Court will eventually be forced to define, to a greater extent, the limits of service members' rights under the First Amendment. This proposed statute is discussed in greater detail in the next section of this chapter.

#### B. LEGISLATIVE AND REGULATORY RESTRICTIONS

Numerous restrictions on First Amendment rights of military personnel limit their ability to take collective action. Also, legal barriers to collective action groups having an interest in military personnel exist. These restrictions and legal barriers are in the form of: laws

passed by Congress and approved by the President; and, regulations issued by the President or for the President by the Secretary of Defense.

Article 2, Section 2, of the Constitution establishes the President as the Commander-in-Chief of the armed forces. As such, the President is entitled to establish regulations which govern the armed forces. Normally, the President relies on his principle assistant, the Secretary of Defense, "in all matters relating to the Department of Defense" [U.S. Code 1971], to implement such regulations. In at least one case, however, the President has acted directly. In this action he excluded "national security organizations" from coverage under his regulations which allow other employees of the executive branch of the Federal Government to form, join, and assist collective action groups which have the power to collectively bargain with the Government [U.S. Federal Labor Relations Council 1975].

Congress derives its authority over the military from Article I, Section 8, of the Constitution which indicates that it shall have the power: (1) to provide for the common defense and general welfare of the United States; (2) raise and support armies; and, (3) to provide and maintain a navy. Furthermore, Congress is also empowered to make rules for the Government and to regulate the land and naval forces.

On 16 September 1977, in what it viewed as a valid exercise of this authority, the Senate approved and sent to the House of Representatives a bill (S. 274) which would limit collective action by prohibiting "labor unions in the U.S. military services" [Monterey Peninsula Herald 17 September 1977]. However, the Department of Defense has previously gone on record as opposing such legislation.



In this regard, Secretary of Defense Brown told the Senate Armed Services Committee that, "caution should be exercised in any legislative action in this area." He believes that existing regulations are sufficient and that drastic statutes which would outlaw the union form of collective action might do more harm than good. In addition, Brown told the committee that any legislation would have to be examined carefully to insure that constitutional protections of free speech and association are not violated. He is of the opinion that, "adverse court decisions could lead to greater limitations on the armed forces' ability to deal with these matters than exist now." [Navy Times 4 April 1977]

The Senate's proposed statute uses the term "labor organization" extensively and defines it as a group that: seeks to negotiate with the Government concerning terms and conditions of military service; represents service members in grievance proceedings; or, strikes, pickets, or engages in any other concerted action against the Government.

The proposed law contains three significant sections. The first deals with military personnel and would make it unlawful for them to: knowingly become a member of or solicit others to join a labor organization; bargain on military issues with or on behalf of a labor organization claiming to represent other military personnel; participate in or organize a strike, picket, or similar activity against the Government; or, use or permit the use of military property for a meeting which concerns activities prohibited by the bill.

A second section would make it illegal for a labor organization to: enroll, solicit, or accept dues or fees from military personnel; bargain on military issues with the

Government on behalf of military personnel; represent military personnel in grievance proceedings; organize or participate in a strike or other concerted action by military personnel against the Government; or, use any military property for a meeting which concerns activities prohibited by the proposed statute.

The third key section would specifically exclude from its restrictive provisions existing military and veteran associations. This is of course provided that they do not support any of the prohibitions of the bill. [Thurmond August 1977]

Regardless of whether the Senate bill just outlined becomes law, there are, currently, many statutory provisions in existence which restrict the ability of service personnel to take collective action. For example, the Uniform Code of Military Justice includes many articles which could be applied against individuals who went too far in their collective job-related actions to affect military conditions. These articles provide criminal penalties for: soliciting or advising another to desert, mutiny, misbehave before the enemy, or commit sedition (Art. 82); deserting or being absent without leave (Art. 85 and 86); missing movement (Art. 87); using contemptuous words by commissioned officers against certain officials (Art. 88); disrespect toward a commissioned officer (Art. 89); willfully disobeying a superior commissioned officer (Art. 90); insubordinate conduct toward a warrant officer, noncommissioned officer, or petty officer (Art. 91); disobeying an order or regulation (Art. 92); mutiny or sedition (Art. 94); damaging or destroying military or other property of the United States (Art. 108 and 109); malingering (Art. 115); riots or breach of the peace (Art. 116); provoking speech or gestures (Art. 117); assault (Art. 128); and, conduct to the prejudice of good order and

military discipline (Art. 134). [U.S. Code 1971 and Department of Defense 1977]

Under existing statutes, a collective action group and its leadership could conceivably be charged with criminal offenses while assisting military personnel in collective job-related actions (marches, pickets, strikes, etc.) of the type prohibited in the Senate's proposed law (S. 274) and in an existing Department of Defense directive (this directive will be outlined later in this chapter). Any support of these activities could be interpreted as violating statutes which prohibit the following acts: (1) enticing desertion; (2) entering government property for any purpose prohibited by law or regulation; (3) striking against the government; (4) counseling or distributing written materials advising a service member to insubordination; and, (5) counseling a serviceman to mutiny, disloyalty, insubordination, or a refusal of duty [U.S. Code 1971].

By law, the Secretary of Defense is granted "authority, direction, and control over the Department of Defense" [U.S. Code 1971]. Under this authority he has recently published a directive which spells out the Department of Defense's policy on collective action and lists prohibited collective activities and permissible individual activities. The policy section of the directive indicates:

The mission of the Department of Defense is to safeguard the security of the United States. Discipline, obedience to lawful orders and loyalty on the part of members of the Armed Forces are essential to the combat readiness required to accomplish this mission. The interposition of collective or concerted action by any organization in the command relationships established by law and regulation for the government of the Armed Forces would:

1. Erode the discipline of the Armed Forces;
2. Interfere with the power of the Congress to make rules for the government and regulation of the land, air and naval forces, and interfere with the appropriate power [of DoD] to provide the national defense;



3. Impair the authority of the President as Commander in Chief of the Armed Forces and that of officers appointed by him to command the Armed Forces; and,
4. Impair the reliability, operational readiness and combat effectiveness of the Armed Forces so as to threaten the security of the United States.  
[Department of Defense 1977, p. 2]

The directive contains several key provisions which restrict collective action within the military establishment. First, it precludes commanding officers or "superiors" from engaging in negotiations or collective bargaining about military conditions. Second, the directive does not allow members of the armed forces to engage in a strike, work stoppage, or any similar collective job-related action directed at military conditions. Third, the regulation precludes persons from conducting a demonstration, march, protest, or other similar activity on any part of a military installation for the purpose of forming, recruiting members, or soliciting money or services for an "organization."

An "organization" is defined as any group that: engages in any activity prohibited by the regulation; engages in negotiations or collective bargaining on behalf of members of the armed forces; represents members of the armed forces to the military chain of command with respect to terms or conditions of military service when such representation would interfere with the military chain of command; or, solicits or aids and abets a violation of the directive by a member of the armed forces. Furthermore, no member of the armed forces can become or remain an active member of any group when: a determination has been made by the Department of Defense that the group presents a clear danger to the discipline, loyalty, or obedience to lawful orders because the group engages in any act prohibited by the directive; or, violates, solicits, or aids and abets a violation of a specific article of the Uniformed Code of Military Justice.



A fourth provision of the directive disallows members of the armed forces from engaging in any of the prohibitions of the directive or asking for or helping anyone else to do so. Finally, even though the directive treats prohibitions at length, it also deals with permissible individual activities in which military personnel can engage. These activities include: belonging to labor organizations in connection with off-duty employment; presenting views to one's commanding officer; presenting a complaint through established channels; petitioning Congress; or, being represented by counsel in certain formal proceedings. [Department of Defense 1977]

In brief, it can be said that many laws and regulations exist to restrict not only the ability of service personnel to take collective action but also the ability of groups formed for this purpose. In order for members of the armed forces to attain a less restrictive form of collective action, it would be necessary for an individual, individuals, or a collective action group to successfully challenge existing laws and regulations through the court system to, and including, the Supreme Court. However, the fact that restrictions exist does not mean that service people can neither take collective action nor join groups that would assist them in achieving a collective voice at the present time. On the contrary, they can. In fact, both Congress and the Department of Defense look with favor upon one form of collective action group -- military association. In the next chapter, military associations will be discussed at length.

#### IV. MILITARY ASSOCIATIONS

The second chapter of this thesis described the conditions which are providing the stimulus for military personnel to take collective action and to form groups for this purpose. This chapter will discuss military associations, one of the two basic forms of collective action groups into which this stimulus could be channeled.

Since the early 1920's, military associations have been by far the dominant form of collective action groups available to cater to the needs of military personnel and to act as their spokesmen outside the chain-of-command. However, few people inside the military and fewer still outside of the military know very much about military associations. Little is known of their power or effectiveness, who they are, what they have done for military personnel and what they plan to do for them in the future, or how they compare to military unions. This chapter will attempt to correct this situation by: (1) distilling from the multitude of military-oriented groups, not all of which are collective action groups, a list of military associations which appear to be capable of effectively challenging the appeal of military unions; (2) explaining how these military associations operate and summarizing what they have done and are doing for military personnel; (3) revealing what military associations and other military-oriented groups are doing to improve their effectiveness; and, (4) describing the strengths and weaknesses of military associations.

#### A. MILITARY-ORIENTED GROUPS

The Encyclopedia of Associations contains the names of over 100 military-oriented groups. However, the vast majority are veteran or special-interest groups with no direct connection with active duty members of the armed forces [Encyclopedia of Associations 1977]. In fact, only a handful of easily identifiable national associations are equipped and have the requisite goals and objectives which allows them to fit the definition of a military association established earlier. This definition indicated that a military association is a formal collective action group open to military personnel of the regular armed forces which has at least one registered congressional lobbyist and which maintains close liaison with the military services; it uses, as necessary, lobbying, member letter-writing campaigns, and its ties with the military services to achieve its primary and secondary objectives -- improving the "people programs" of the armed forces and aiding the services in fulfilling their hardware needs. The discussion of military associations in this chapter will be limited to only those military-oriented groups which have been found to fit the parameters of this definition.

The author's research has shown that only six of the many military-oriented groups come within these parameters. There are, of course, many other military-oriented organizations which have been and are doing a creditable job of supporting many of the "people programs" of the defense establishment. Veterans organizations such as the American Legion -- with 2.8 million members and one of the most powerful lobbies in Congress -- have repeatedly supported the current method of operating commissary stores [Navy Times September 1975]. Professional military societies, which do not lobby, such as the Air Force Association

(150,000 members) and the Association of the United States Army (97,000 members) have taken with increasing regularity strong positions supporting institutional benefits and a "serviceman's bill of rights." Many of the military societies are frequently invited to present the views of their members to the Department of Defense and before congressional committees and to recommend solutions to existing problems. However, veteran organizations and professional military societies are not of primary interest to this study since their method of problem solving, main objectives, and fundamental goals are not the same as those of military associations.

#### B. SIX MILITARY ASSOCIATIONS

The six military associations have the same goal -- a strong military, manned by well-trained, adequately compensated members. They provide a means for members of the armed forces to take collective action for three purposes: (1) to uphold the security of the nation by supporting national defense needs; (2) to aid in the development and support passage of legislation designed to maintain the attractiveness of military careers; and, (3) to protect the rights of the uniformed services community at the national level through their influence with Congress and the Department of Defense [NAUS 1977]. All six associations are open to active duty military personnel and career retirees.

Each of the six associations maintains liaison with the military departments. Through this effort the association gains more information sooner than would otherwise be possible; spots potentially serious problems which it can help solve; and, develops a close rapport with the services.



Even though a close relationship exists, from time to time the six oppose Department of Defense policies which they do not feel are advantageous to military personnel or in the best interests of the services. However, they rarely oppose the goals of the service chiefs. [NAUS 1977]. Also, each association has a legislative staff with at least one registered lobbyist which concentrates on personnel matters, as would a military union. In addition, these associations enjoy credibility with Congress and are seen as trying to tell both sides of the Department of Defense story. In short, they operate within the system and support the services as well as their members. [Strickland 1976]

All of the military associations do an outstanding job of keeping their members fully informed through a variety of information services. These services can be categorized into three types: (1) periodic publications, (2) special bulletins, and (3) personal assistance.

Periodic publications provide the member with timely and factual information on a monthly or bi-monthly basis. The periodicals contain articles describing: pending legislation and new laws, including specific standings of congressmen and senators, that effect the member and his family; the availability of health and dental care services; issues affecting entitlements of active duty personnel, such as pay raises and changes to the pay system; veteran, retiree, and survivor benefits; and, legislative procedures which tell the member how laws are made and how to communicate effectively with members of Congress to get "action." Special bulletins are published as the need arises and inform the member of the status of important legislation. The bulletins also tell what specific action the member should take to insure that favorable bills are passed and unfavorable bills defeated. Personal assistance is a counselling service on matters affecting benefits, pay,

survivor benefits, annuities, insurance, availability of medical care through military installations, CHAMPUS, and Medicare.

Even though there are numerous similarities among the six military associations, there is one significant difference. Each, except for the National Association for Uniformed Services, has in the past restricted its membership to either commissioned officers or non-commissioned officers of the armed forces population rather than accepting all who are interested in joining. Recently, however, in an apparent attempt to counter the appeal of military unions, several noncommissioned officer associations have expanded their membership to include not only pay grades E4 through E9 but also E1 through E3. Others which had been limited to retired or reserve military personnel have expanded their membership into the active duty community. In order to give an overview of how the six associations operate and to summarize what they have done and are doing for military personnel, each military association will be discussed individually in the following paragraphs.

#### 1. Air Force Sergeants Association (AFSA)

AFSA was founded in 1961 and is the most aggressive and fastest growing of the group. In the past two years alone its membership has increased 70 percent (34,000). Current membership, which is limited to enlisted Air Force members -- active, National Guard, reserve, and retired -- stands at 83,000.

AFSA has been highly innovative in a number of ways. First, it is the only one of the six that has national toll-free lines at its headquarters in Washington, D. C. to

encourage a free flow of information and ideas from its members in the field. Second, on a trial basis in Alabama and California, it is establishing state level lobbying efforts. AFSA is doing this through chapter chairmen in these states with supervision and guidance from its national headquarters. To assist in this effort, AFSA has published two comprehensive guides, one tailored to California and the other to Alabama, which provide a resume of largely unknown state laws granting a multitude of rights, benefits, and privileges to qualifying members of the association. The guides also contain general guidelines on state legislative procedures, the "art of lobbying," and guidelines for lobbyists. Third, AFSA represents individual members before Government agencies (i.e., Veteran's Administration, Civil Service Commission, and various elements of the DoD bureaucracy) when it feels there is a clear indication of injustice, or lack of full consideration of factors bearing upon the case [Harlow 1977].

## 2. Fleet Reserve Association (FRA)

The Association was established in 1924 and is highly respected by both Congress and the Department of Defense. It is probably the most effective of the six associations. Current membership is 133,000 and is restricted to enlisted personnel of the Navy, Marine Corps, Coast Guard, Navy and Marine Fleet Reserve, and retired enlisted members of these services. FRA has been the leader among the associations in their campaign against military unions and has spent heavily to oppose military unionism.

In an effort to get first-hand information from active duty personnel of all services on how they feel about military compensation, retirement, and unionization, FRA recently established the "Sound-off to Congress" program.

Information for the program is obtained from public hearings held by the "White Hat" Pay Panel at various locations across the nation. During these hearings military personnel are invited to appear and testify as to their views on these subjects. The findings of the first series of Pay Panel hearings were presented to the Senate Armed Services Committee on 19 July 1977 [Nolan 1977]. This program has been highly successful and both Congress and the Department of Defense have expressed great interest. In fact, both are so interested that hearings held during November 1977 had a panel which included congressmen and high ranking military officers.

### 3. National Association for Uniformed Services (NAUS)

NAUS was organized in 1968 and is the only association open to both officers and enlisted personnel and all branches of the armed forces. Its membership parameters are so broadly based because its founders were convinced from their experiences in both active duty and retirement that dealing with Congress and the Administration would be more effective if NAUS included all elements of the military community as members [NAUS 1977]. Currently, membership stands at 25,000. Although it has the broadest base from which to draw its members, the appeal of this feature, as evidenced by its relatively small membership, has not been widespread.

Despite its size, NAUS appears to be effective. For instance, a NAUS representative claims that in 1974 it not only generated the legislation to improve the armed forces' Survivor Benefit Plan but was also instrumental in passage of this bill. Currently, it is attempting to improve the



overall effectiveness of military associations through its efforts to make the Ad Hoc Committee, which will be discussed later, more of a uniting force. [Sheffey 1977]

#### 4. Non-Commissioned Officers Association (NCOA)

The Association was founded in 1960 and is the only one of the six military associations not headquartered in the Washington, D. C. area. It does, however, maintain a fully staffed "National Capital Office". It is open to noncommissioned officers and petty officers, E4 through E9, of all branches of the armed forces -- active, National Guard, reserve, and retired. Membership stands at 150,000.

Unlike the other military associations, NCOA is not totally dependent on individual members, local chapters, and direct mail recruiting programs to attract new members. At most major military installations NCOA has full or part-time Resident Counsellors who are licensed life insurance agents. Counsellors have several functions which include: (1) explaining to potential new members the benefits of joining; (2) assisting widows of members in applying for survivor benefits; and, (3) selling NCOA endorsed life insurance. According to an NCOA spokesman, the Resident Counsellor program has been highly successful. The Association believes the program's main advantage is that members can be "assured that their wives will be taken care of" if something should happen to them. For many members who have foreign born wives who do not speak English well, this program helps alleviate a major concern.

##### 5. Reserve Officers Association (ROA)

ROA was established in 1922 and has a long record of successful lobbying efforts dating back over forty years. Today, its name is a misnomer because its membership is no longer restricted to reserve officers. Currently, the Association has a membership of 102,000 and is restricted to commissioned and warrant officers, regular and reserve, of the armed forces who are on active duty or are retired.

Over the years ROA's support for active duty personnel includes the following:

- \* 1934 - lobbied for and is credited with obtaining an extra \$28 million in military expenditures to allow more training for armed forces personnel
- \* 1948 - supported PL 80-810 which provided retirement pay for all career officers and the opportunity for the first time for regular officers of the Army and Air Force to retire with less than 30 years service
- \* 1956 - supported legislation which brought the survivors of regular military personnel under the Dependency and Indemnity Compensation Act
- \* 1963 - credited with leading the fight which resulted in a recomputation of retirement pay
- \* 1964 - credited with obtaining enactment of a law which provides four-year ROTC scholarship programs for all services
- \* 1969 - supported legislation to increase per diem and to add a one percent "kicker" to retirees' cost-of-living increase

- \* 1970 - supported a Servicemen's Group Life Insurance (SGLI) increase to \$15,000
- \* 1972 - backed enactment of the Survivor Benefit Plan
- \* 1974 - supported an SGLI increase to \$20,000 [Ganas 1976]

More recently, in a class action suit brought by the Promotion Research Committee, ROA testified as a witness in behalf of those active duty officers who failed selection by "improperly constituted" selection boards. While the Association has been involved with class action suits of the type just described, it has not gotten involved in individual court cases. This is because ROA does not have the legal staff that such an endeavor would involve. However, the Association does advise and council its members, informally, on an individual basis. [Ganas 1976 and 1977]

#### 6. The Retired Officers Association (TROA)

The Association was founded in 1929 and is the largest of the six associations. Like ROA, its name is also a misnomer. This is because it now accepts active duty officers as well as retired; currently, membership stands at 230,000. TROA was one of the first associations to recognize the need for an umbrella group and was instrumental in forming both the Council of Military Organizations and the Ad Hoc Committee. These umbrella groups will be discussed further in a later section.

Like the other five, TROA establishes many of its goals and policies for the coming year at its annual convention. At the 1976 convention, TROA approved resolutions, designed to improve the economic standing of their members, which addressed the following issues: protection of entitlements; equalization of retired pay; improvements to survivor protection plans; health care; federal income tax reform; employee restrictions (changing the restrictions covered in the Dual Compensation Act of 1964); and, longevity, retired pay, and VA disability compensation. [Air Force Times 4 October 1976]. It should be noted that despite the fact that over three-quarters of TROA's members are retired officers, three of the seven resolutions are directly concerned with improving overall compensation of active duty personnel.

#### 7. Future Efforts

Military associations generally have been able to agree on a number of military benefits and entitlements that they will attempt to protect or improve in the future. This includes opposition to the following actions which would erode benefits: taxation of active duty allowances; taxation of commissary and exchange sales; initiation of contributory retirement plan and/or phase-out of early retirement; deferral of retirement pay to age 60 of voluntary retirees; reduction or denial of retired pay to military retirees in the civil service; reduction of retirement pay by some portion of subsequent earnings in any type of employment; further reduction of the CHAMPUS program; reduction or termination of social security payments to military retirees; and, change in the subsidized commissary system. Also included is support for the following legislation: recomputation of retired pay;



severance pay for enlisted personnel who are involuntarily separated before completion of 20 years service; improved survivor benefits; and, a provision which would entitle dependents of active and retired military personnel to receive dental care under CHAMPUS.

#### C. ATTEMPTS TO IMPROVE EFFECTIVENESS

If the six military associations discussed above were merged into one large association or were unified under an umbrella organization similar to the AFL-CIO, the result would be a powerful lobbying organization backed by nearly three-quarters of a million members. This organization would have more power collectively than could be obtained by simply summing its parts. Even though two weak umbrella groups, the Council of Military Organizations and the Ad Hoc Committee, have been formed in an effort to point all military associations and military-oriented groups in the same direction, only NAUS believes that it would be desirable or feasible for military associations to merge or submit to a unifying force. The other five are concerned not only with broad issues which effect members of all six military associations, but also issues which are peculiar to their restricted memberships as well. For example, AFSA is currently attempting to have regulations changed so that enlisted personnel who undertake the two years of required schooling for the Air Force Physician's Assistant Specialty are promoted to Warrant Officer upon completion. On the AFSA's list of pending proposals, this issue ranks seventh out of 13. Obviously, if the six associations were to merge, this issue would have a much lower priority on a much longer list.

According to the Executive Vice President of NAUS, John Sheffey, the reason why merger or unification is not considered desirable or feasible is that each is "jealous of its own turf." In addition, he believes that the enlisted associations are fearful of domination by the officer associations and each is "determined to have independence." [Sheffey 1977]

In addition to NAUS, at least one other of the six military associations has considered a combined commissioned officer and enlisted association. In 1967, TROA conducted a study to determine the desirability of opening its membership to enlisted noncommissioned officers. In an opinion poll, 80 percent of the members questioned opposed such a move, 15 percent favored it, and five percent had no opinion. Naturally, the noncommissioned officer associations took a dim view of TROA's proposed action. A representative of one stated:

The very composition of our association makes it impractical for us to merge into a theoretical, all-powerful lobby group. No matter which way you slice it, we are different groups, with different backgrounds and, at times, different problems. [Lein 1975, p. 23, 24]

A key point made by the TROA study group was the need and desire for a greater exchange of ideas between military associations and other military-oriented groups. From this came the Council of Military Organizations (COMO), an umbrella group of 12 military-oriented organizations and military associations which meets at least monthly to discuss personnel-related matters affecting all segments of the armed forces.

However, COMO has a major weakness. it is unable to provide strong centralized direction or require unified action because it is fundamental to the council that each association retains its own individual identity. Despite

its major weakness, COMO members are able to reach, with increasing frequency, a consensus on matters of common interest [Lein 1975]. Since it was established, COMO's membership has been restricted to the following organizations:

- Air Force Association
- Air Force Sergeants Association
- U. S. Coast Guard CPO Association
- U. S. Coast Guard CWO and WO's Association
- Disabled Officers Association
- Fleet Reserve Association
- Military Wives Association
- Naval Enlisted Reserve Association
- Naval Reserve Association
- Reserve Officers Association
- The Retired Officers Association
- U. S. Army Warrant Officers Association [AFSA 1977]

In 1970, another umbrella group with a broader power base was formed. The group was called the Ad Hoc Committee and initially had 14 member organizations. The objective of the Committee is to exchange views on defense policies, "people programs," and hardware needs of the services. Through its monthly meetings, like COMO, the Ad Hoc Committee provides for the free flow of information among its members and an insight into how legislation and various policies impact on the total military establishment [Lein 1975]. Unfortunately, the Committee suffers from the same major weakness that effects COMO -- it is unable to provide strong centralized direction. Currently, the Committee is made up of 22 military-oriented organizations and military associations, six of which are also members of COMO. A list of the members of the Ad Hoc Committee is provided below:

- Air Force Association
- Air Force Sergeants Association
- American Legion

American Logistics Association  
American Security Council  
Association of the United States Army  
Disabled Officers Association  
Marine Corps League  
Marine Corps Reserve Officers Association  
Military Order of World Wars  
National Association for Uniformed Services  
National Guard Association  
National Rifle Association  
Navy League  
Non-Commissioned Officers Association  
Reserve Officers Association  
U. S. Army Warrant Officers Association  
Veterans of Foreign Wars [AFSA 1977]

According to Mr. Sheffey, both COMO and the Ad Hoc Committee members may collectively agree on a joint position regarding a particular piece of proposed legislation but do not submit to direction or control. As a result, there is no unified strategy on how to persuade Congress. This shortcoming can result in "all members calling on one senator while not on another." Despite their shortcomings, both COMO and the Ad Hoc Committee are a significant step in the right direction and they are a major improvement over the uncoordinated approach to issues which existed prior to their formation. [Sheffey 1977]

#### D. STRENGTHS AND WEAKNESSES OF MILITARY ASSOCIATIONS

The military associations and the service-oriented press do not believe there is anything that a military union could do that is not being done by military associations already, unless it is to generate some degree of fear within the



leadership of the armed forces of a possible strike threat. [Air Force Times July 1975]. This view is also held by James Peirce, President of the National Federation of Federal Employees. In response to a letter written by the author of this thesis, Mr. Peirce stated:

You raised the issue concerning unions versus associations; you should realize that associations lobby very vigorously on Capital Hill to attain benefits for [their] members. This is a primary purpose of a union. The associations are, in effect, performing in much the same manner as a union. Note, for instance, the lobby efforts of the Air Force Association, the [Reserve] Officers Association, the [Air Force] Sergeants Association, etc.; these organizations spend untold dollars on lobbying for benefits for their members. Difference -- there is no real difference, just semantics. [Peirce, 1977]

Many comparisons have been drawn between some of the more aggressive military associations and unions. Even though many points of comparison exist, there are two very important and significant differences. First, military associations do not employ collective bargaining as a means of reaching their objectives. Second, they do not condone the utilization of any form of strike to achieve their goals. [Harlow 1977]

Military associations support not only their members but the services as well. They operate within the system and have been credited with many successes. These successes include: recomputation of retirement pay; SGLI increases to \$15,000 and \$20,000; the original and subsequent improvements to the armed forces' Survivor Benefit Plan; and, retention of the subsidized commissary system. Military associations have performed and continue to perform a number of important functions which are listed below:

1. Provide another line of communications for the services to reach military personnel who are members of the associations

2. Provide an alternative line of communication for their members to express their views and needs to the services
3. Provide support to the services in communicating policy and hardware needs to the American public
4. Provide support in the Congress for Department of Defense sponsored legislation which in their view is beneficial to service members
5. Provide support, through local units, for military community relations programs
6. Provide, through their efforts to enhance the public image of the military, support for service recruiting programs
7. Provide, at group rates and specifically tailored for their membership, benefits -- group health and life insurance, travel, and discount plans -- not available from the military services [Lien 1975]

There are several reasons why military associations have not been more effective in the past. First, the Department of Defense has been reluctant to accept their criticism as well as their support and has failed to take full advantage of the opportunity to communicate with service personnel through their military associations [Air Force Times July 1975]. This problem persists even today but is beginning to be countered by programs such as FRA's "Sound-off to Congress". Second, service personnel have not given wide support to military associations. Now, however, membership is increasing rapidly and members are becoming more active and vocal [Strickland 1976]. Each military association is convinced that it will be able to do a better job with more members. Third, there has been lack of unanimity among military associations with similar objectives [Lein 1975].

This problem has been so obvious that even Congress has criticized military associations for this shortcoming. Today, however, this problem has been somewhat diminished by the two umbrella groups.

## V. MILITARY UNIONS

The second and fourth chapters of this thesis described the conditions which are providing the stimulus for military personnel to take collective action and one of the two basic forms of collective action groups into which this stimulus could be channeled. This chapter continues this discussion by describing the second of the two basic forms of collective action groups -- military unions.

Included in this chapter is a discussion of possible military union sources, the limits of military union power today, and the limits to which it could possibly expand in the future. Also, the chapter attempts to assess the possibility of military unions coming into existence in this country by examining the views of the general public, military personnel, and the leadership of the armed forces concerning the unionization issue.

### A. BACKGROUND

Today, there are no military unions of consequence in the United States. For this reason, it is necessary to look elsewhere to gain an understanding of how military unions might develop and what capabilities and power they would probably possess if widespread military unionization occurs in this country.

It appears that there are three likely sources from which military unions might develop:



1. The more aggressive military associations may modify their by-laws to allow collective bargaining
2. Existing organizations which call themselves military unions may gain greater support and strength
3. Existing public and private sector unions may expand their membership base to include military personnel

Because a detailed discussion of military associations has already been conducted (see Chapter IV) and because these associations, have shown little inclination towards wanting collective bargaining rights, this chapter will not include a discussion of the first of the three sources listed above. In addition, the discussion of the third source will be limited to Federal sector unions which have previously expressed interest in the unionization of the military. State, county, and local public sector unions and private sector unions will not be brought into the discussion because they are for the most part strongly opposed to unionizing the military and are therefore not viewed as a likely source.

Many previous authors have examined Federal sector unions and Western European military unions in an attempt to determine what United States military unions would be like if they came into existence. This discussion will additionally question the validity of using Western European military unions as a model in its critical examination of the comparability of the European experience to the situation in the United States.

## B. IN-HOUSE UNIONIZATION EFFORTS

Since World War II there have been a number of unsuccessful grass-roots, in-house attempts to organize members of the armed forces. The first of these and the largest occurred early in 1946 when large numbers of service personnel in Germany and the Philippines protested the slow pace of demobilization. The group in Manila claimed to represent 139,000 soldiers. Since the issue was temporary in nature, the union disappeared shortly after demobilization. [Towell 1976]

The next attempt, apparently, did not occur until the Vietnam War. This attempt began on 25 December 1967 when a group known as the American Servicemen's Union (ASU) was formed. Its founder, Andrew Stepp, was an avowed Marxist-Leninist who had joined the Army to organize it from within. [Harris 1975]. Shortly afterward, Stepp published a list of "progressive" demands which included:

1. The right to refuse illegal and immoral orders
2. Election of military officers
3. Trial by a jury of peers
4. Abolition of the salute and term "sir"
5. The right to collective bargaining
6. The right of free political association
7. The Federal minimum wage for all enlisted personnel
8. The right of Black, Latin, and other national minority service personnel to "determine their own lives free from oppression of racist whites" [Pruden 1976]

In 1969, at its zenith, ASU reached a total membership of 5,000 to 6,500 [Time 1969]. However, with the phasing out of the Vietnam War and the termination of the draft, the union lost most of its support [Harris 1975]. Many previous authors on the subject of military unionization have indicated that ASU is now practically non-existent. This may be true but ASU claims its current membership stands at 11,000 [Encyclopedia of Associations 1977].

ASU's attempt to unionize the armed forces in the late 1960's and early 1970's encountered difficulties from: (1) the military establishment's ability to "harass troublemakers" in countless ways, including transfers to remote locations or to combat in Vietnam; (2) the military establishment's ability to court-martial service personnel for "catch-all crimes" such as conduct which is prejudicial to good order and discipline; (3) regulations which precluded local commanders from recognizing the existence of "so-called 'serviceman's unions'" but which permitted them, within reason, to place "off-limits" to service personnel establishments used as meeting places [Department of Defense 1969]; (4) lack of support by organized labor [Hefti 1977]; and, (5) lack of support by Black activists, which had been counted upon from the union's inception. [Harris 1975]

In addition to ASU, the Vietnam War spawned several other small and ineffective grass-roots, in-house unionization efforts. These included the Federation of Commissioned Uniformed Officers (FOCUS), Vietnam Veterans Against the War, Winter Soldiers Organization, The Defense Committee [Hefti 1977], and the Concerned Officers Movement (COM) [Pruden 1976]. After the war, the Union of U. S. Military Physicans (UUSMP) was formed in 1975 and grew to approximately 300 members [Army Times 28 May 1975 and Air Force Times 16 July 1975]. Today, two new groups, the

Enlisted Peoples Organizing Committee (EPOC) and the Citizen Soldier, are attempting to succeed where previous unionization efforts of this type have failed [Navy Times 6 June 1977 and Deline 1977].

All grass-root, in-house unionization efforts, to date, generally have several things in common which cause the Department of Defense to treat them with little concern and to view them as only a minor annoyance. First, they are, for the most part, uncoordinated attempts on a part-time basis by disgruntled first-term personnel who have little or no expertise in either organizing a union or in military and labor law. Second, these unions frequently address themselves to issues that are not broadly based or are perceived as being radical. As a result, these unions have difficulty attracting the average service member. Third, they are poorly financed and this severely limits their growth potential. As a result of these three factors, unionization efforts of this hue stand only a very small chance of ever succeeding.

#### C. FEDERAL SECTOR CIVILIAN EMPLOYEE UNIONS

The most likely source from which military unions could develop is the Federal sector civilian employee unions. Military unionization appears to be the next logical step for Federal employee unions to take in their long and slow development -- development which has been due to the gradual liberalization of labor-management relations policies in the Federal Government. This section will trace the historical growth of Federal employee unions and speculate on their future growth. In addition, this section will point out the logical limits of authority which military unions could expect to confront in labor-management relations with the



Federal Government even if current policies and laws are liberalized -- limits which would be set by policies and laws determining the scope of civilian Federal employee labor-management relations.

#### 1. Growth of Power and Size

Union activity of civilian employees in the Federal sector is not a recent development. In fact, organizations of blue-collar workers in the Government date back to the 1830's. However, it was not until the passage of the Lloyd-LaFollete Act in 1912 that Federal civilian employees gained the right to belong to unions, provided that the union did not assert the right to strike. [Lewis 1965]. Even today, this Act is the only significant Federal statute protecting this right [Strickland 1976].

The first union open to all Federal employees regardless of trade or occupation was the National Federation of Federal Employees (NFFE). It was formed in 1917 when the American Federation of Labor (AFL) issued a charter to several directly affiliated local unions. However, a 1932 disagreement with the AFL over jurisdictional matters resulted in the withdrawal of the NFFE from the Federation. Today, it still remains an active, independent union. Local unions which opposed secession formed the American Federation of Government Employees (AFGE) in the same year. [Lewis 1965]

Private sector unions made great advances in the 1930's with favorable legislation such as the Norris-LaGuardia Act of 1932 and the National Labor Relations Act of 1935 (Wagner Act). Among other things, the Wagner Act accorded workers in the private sector the right to collectively bargain. While these advances were being

made by private sector employees, public sector employees were specifically excluded. [A'Hearn 1974]

Even though President Roosevelt was largely responsible for the revival of unionism in the private sector during this period, he did not believe that collective bargaining could be transplanted to the public sector. In 1937, in a letter to the President of NFFE, he expressed what became viewed as the Government's policy (until the 1960's) toward its employees' rights:

. . . government employees should realize that the process of collective bargaining, as is usually understood, cannot be transplanted into public service. It has its distinct and unsurmountable limitations when applied to public personnel management. . . .

. . . Upon employees in Federal service rests the obligation to serve the whole people; whose interest and welfare require orderliness and continuity in the conduct of Government activities. This obligation is paramount. Since their own services have to do with the functioning of the Government, a strike of public employees manifests nothing less than an intent on their part to prevent or obstruct the operations of the Government. . . . Such action, looking toward the paralysis of Government by those who have sworn to support it, is unthinkable and intolerable. . . . " [Krendel 1975, p. 23, 24]

By 1940, over one-third of all Federal Civil Service employees had become union members. Even though it was generally felt that these employees could not or would not strike, the enlarged scope of union activities and participation brought more labor legislation from Congress shortly after World War II ended. [A'Hearn 1974]

In 1947, a general labor law, the Taft-Hartley Act, which included a specific provision for Federal employees, was passed. This provision, Section 305, made it unlawful for any employee of the Government to participate in a strike. This Section was replaced in 1955 by Public Law 330 which made it a felony for a Federal employee to participate in any strike or to assert the right to strike against the Government. [Strickland 1976]

Labor attempted to counter this move as it had in the past by going to its friends in Congress for help. This attempt took the form of the Rhodes-Johnson Union Recognition Bill. Its goal was to strengthen Federal public sector unions by establishing statutory grievance procedures and binding arbitration. The Bill never reached the House floor despite the fact that it was introduced in every session of Congress from 1949 through 1960. [A'Hearn 1974]. This Bill was important because it set the stage for labor reform in the Kennedy administration.

Knowing labor's support contributed significantly to his narrow victory, Kennedy set about to repay his debt shortly after entering office. This resulted in a task force of the most influential members in his administration being formed in 1961. The result was Executive Order 10988 which the President issued on 17 January 1962.

Often referred to as the "Magna Carta" for Federal employees, the Order established for the first time a uniform labor relations policy in the Executive Branch of the Federal Government. The key provisions of the Order were:

1. The right to organize and present views collectively to Government officials and Congress
2. The right of an employee organization to informal, formal, or exclusive recognition
3. The right of formally and exclusively recognized organizations to be consulted and to raise for joint discussion matters of concern to their members
4. The right of exclusive representation to negotiate written agreements [Krendel 1975]



With the establishment of the Order, one-way communications between Federal managers and the union came to an end. The union no longer had to just listen since it now had legal channels of communication. Now, also, management was required to negotiate with union representatives and had to make a good faith attempt at reaching an agreement. [Strickland 1976]

There can be little doubt that the order was a significant step in improving government labor-management relations in the Federal sector. However, various difficulties in implementation developed. One of the major difficulties was that no formal policy-making organization had been established to ensure that the Order was equally applied throughout the Government. This, as well as other complaints, led President Johnson to establish a committee to recommend adjustments to Executive Order 10988 [Krendel 1975].

The recommendations of this committee were incorporated into Executive Order 11491 which was issued by President Nixon on 29 October 1969. The new Order replaced Kennedy's Order which was revoked at that time. Nixon's Order was basically a refinement of the old, but, in addition, it provided for the establishment of (1) the Federal Labor Relations Council and (2) the Federal Impasses Panel. These agencies provided greater control over the administration and interpretation of the Order than had previously existed. Also, a specific method for the settlement of unresolved disputes and further definition of areas which could and could not be covered in the negotiation of agreements were included in the Order. Of particular interest are the areas excluded from negotiation. The Order indicates:

. . . The obligation to meet and confer does not include matters with respect to mission of an agency; its budget;



its organization; the number of employees; and the number, types, and grades of positions of employees assigned to an organizational unit. . . . [U. S. Federal Labor Relations Council 1975, p. 12]

Since 1969, Executive Order 11491 has been amended by Executive Orders 11616, 11636, and 11838. Although minor in nature when compared with the two previous Orders, the latter three provide a further refinement to labor relations in the Federal environment and also grant several minor privileges to the unions.

As direct result of the concessions made by the Government, in the Executive Orders issued by Kennedy and Nixon to improve labor-management relations, Federal sector unions experienced remarkable growth from 1960 to 1975. For example, between 1960 and 1970, the number of Federal employees with active membership in AFGE grew by 362 percent. By 1975, AFGE had approximately 300,000 members and represented about 700,000 employees in its contracts with government agencies. In the Department of Defense alone, AFGE had 150,000 members and represented more than 392,000 of the Department's 992,000 civilian employees [Navy Times 24 September 1977 and Krendel 1977]. Overall, Federal sector unions represented 1,750,000 Government employees [Strickland 1976]. However, the Department of Labor recently reported that membership in both public and private sector unions had declined, from 1975 through 1977, by 3.8 percent (767,000) overall. In actual numbers, Federal employee unions lost 100,000 members. This reversed the 15-year trend which began in 1960's [Sunday Peninsula Herald 4 September 1977].

Declining membership, which began at about the same time that the AFGE was considering expanding into the armed forces, is a serious problem for Federal sector unions. This is because of at least one very important reason: a

union's power is closely related to the size of its membership. The larger the union membership, the more dollars it receives through dues to support its goals and the greater the clout its lobbying effort has in influencing legislation. If it can be assumed that unionism in the Federal sector will again continue the evolutionary process and experience the growth that it has in the past, the question arises: "How will this be manifested?"

One likely answer is unionization of the military. This is a distinct possibility because of four basic reasons:

1. Military and civil service pay scales have been linked together for some 10 years in determining the percentage of annual salary increases. As a result, Federal sector employee unions are not only directly representing civilian employees of the Government but also indirectly representing military personnel in pay matters.
2. Military personnel, as a group, represent a vast untapped source of members for Federal sector employee unions. As previously mentioned, the unions realize that the number of members a union has is proportionally, if not exponentially, related to the power its voice has in Congress. Also, greater membership means more dollars for the unions to carry out their programs.
3. AFGE's successful solicitation and use of support from military personnel to achieve its pay increase objective in 1974 highlighted the fact that military personnel and civilian employees could work together through a union to achieve otherwise unattainable goals.

4. Federal sector employee unions have already unionized the National Guard and Reserve technicians. This has given Federal sector employee unions basic experience in dealing with the fringes of the military establishment on the rights and benefits of quasi-military personnel.

The first three of the above reasons have been previously discussed in detail (see Chapter II) and will not be discussed further at this point. However, the subject matter -- unionization of the Guard/Reserve technicians -- of the fourth reason will be examined in detail in the following section. This will be done because of the broad implications of union activity so closely associated with the armed forces and the potential precedents inherent therein.

## 2. Unionization of Guard and Reserve Technicians

With the passing of the National Guard Act of 1968 (PL 90-486) the door to military unionization was set ajar. This law allowed, commencing on January 1969, National Guard and Reserve technicians for the first time to be considered Federal employees and enabled them to join, participate in, and be represented by labor unions.

Guard and Reserve personnel fall into two categories: (1) part-time reservists and (2) full-time civilian technicians who, as a condition of employment, are required to join the Guard or Reserve and perform week-end and summer duty as military personnel. Since technicians work full-time for the Guard and Reserve, they provide a stable core of professionals around whom most unit activities revolve. Each technician is both a Federal civil



servant and a member of the uniformed military (officer and enlisted) earning pay and retirement credit for weekend and active duty training periods as would any reservist.

Prior to the 1968 National Guard Act, technicians were paid by the Federal Government, but because they were classified as state employees there was no single retirement or fringe benefit program. Conditions varied widely from state to state. It was this shortcoming which prompted the National Guard Association of the United States (NGAUS) to lobby in Congress for a single retirement and benefit package for all Guard and Reserve technicians. As a result of this pressure, the National Guard Act was passed. The Act converted the status of the technicians to that of Federal employees, required their membership in the Guard or Reserve as a condition of employment, granted them a Civil Service retirement program, gave credit for past technician service for Federal fringe benefits, and placed a ceiling on the number of technicians which could be employed. [A'Hearn 1974]

The immediate result of this Act was that the technicians were now covered by the Kennedy and Nixon Executive Orders which enabled them to be collectively represented by labor unions. Almost immediately, two existing Federal employee unions, AFGE and the National Association of Government Employees (NAGE), and two newly formed unions, the Association of Civilian Technicians (ACT) and the National Air and Army Technicians Association (NAATA), began to organize the technicians. In the period that followed, which was hindered by management inertia, unit commanders and managers found themselves unprepared to deal effectively with union intervention. After the initial period of adjustment three things became apparent: (1) management's discretionary power had narrowed; (2) management became more aware of personnel problems and more



cognizant of its own position on personnel matters; and, (3) there was no reduction in military efficiency. [Strickland 1976 and Krendel 1977]

More recently, the National Guard Act has played a role in yet another significant event in the evolution of Federal sector labor relations. Early in December 1975, a union which grew from the provisions of this law, the Association of Civilian Technicians (ACT), began a drive to organize part-time Army, Navy, and Air Force reservists. Vincent J. Paterno, the President of the 8,000-member ACT, has stated that he believes his union's newly-created affiliate, the Association of Guard and Reserve (AGR), should represent reservists because the reservists and civilian technicians have many interests in common. AGR's objective is to provide reservists with a voice in policy decisions and to prevent cuts in Reserve component programs. Existing organizations such as NGAUS and ROA have been criticized by Paterno for being too close to the Pentagon and too far from their members. AGR's membership goal is 100,000 of the 700,000 members of the National Guard and Reserve. Even though membership figures have not been publicly disclosed, union representatives claim to be "elated over the response" by both officers and enlisted personnel. [Air Force Times 5 January 1976, 10 May 1976, and 19 July 1976]

About the same time that ACT announced its plan to unionize the National Guard and Reserve, the largest Federal employee union, AFGE, announced that it was studying the possibility of taking members of the uniformed military services into its membership.

### 3. Expansion into the Active Armed Forces

AFGE is the only significant union which has seriously considered, for any length of time, unionizing members of the active duty armed forces. Several other unions (Teamsters, National Maritime Union, etc.) have briefly looked into the feasibility of such an action and have then quickly discarded the idea. AFGE's interest in unionizing the military developed to such an extent that delegates to its national convention voted during September 1976 to amend the AFGE Constitution to make armed forces personnel eligible for membership. In part, Article II of the AFGE Constitution reads:

SEC. 1. (a) All employees of the United States Government, and any of its instrumentalities of whatever nature, including military personnel of the armed forces, are eligible for membership in this Federation. [AFGE 1976, p. 2]

However, as a result of solidifying opposition in Congress and proposed legislation to ban military unions, the AFGE decided to re-evaluate its position prior to actually commencing a membership drive for military personnel. It did this by asking its locals to conduct voting to determine if the AFGE should proceed with plans to unionize the military. The results which were made public during September 1977 showed a four-to-one margin against organizing the military. Even though the AFGE's President, Kenneth Blaylock, has stated that unionization of the military is now "a dead issue," he has not ruled out the possibility of organizing the military in the future and has stated that he will continue to watch out for military personnel. (Blaylock September 1977 and Blaylock September 1977)

If Federal employee unions do decide to continue their expansion into the military in the future, what can they offer military members that existing military associations cannot offer? In this regard, it must be remembered that, as with civilian Federal employees, any union choosing to represent military personnel can have only the legal authority accorded them by the Federal Government. At present, existing laws place military union activity at about the point public sector unions were prior to Executive Order 10988. [Mossberg 1975]

During the era prior to Executive Order 10988, public sector unions ran effective legislative lobbying programs, processed complaints, and represented members in appeal actions [Mossberg 1975]. In other words, today, an organization calling itself a military union could come into existence, but its activities would be restricted to the activities currently being carried on by the six military associations (see Chapter IV). If, however, Executive Order 11491 was amended or legislation passed to afford military personnel the same rights that civilian Federal employees enjoy, the situation would change significantly, since collective bargaining and third-party mediation would be introduced [U.S. Federal Labor Relations Council 1975]. In order for this possibility to occur, it would be necessary for significant numbers of the general public, the leadership of the military, and military personnel to show some support for such a move. The next section of this chapter will examine the views of the nation's population concerning the unionization of the military issue.

#### D. OPINIONS ON THE UNIONIZATION OF THE MILITARY

Even if laws such as the anti-military union bill (S. 274), now pending in Congress, are enacted and regulations such as Department of Defense Directive 1354.1 are written to ban military unionization, they will be ineffective and not preclude military unions if not supported by the general public, service personnel, and the leadership of the armed forces. Therefore, an important question must be answered: "What do the people of our country want?" [Thurmond 1977]. The following paragraphs will attempt to answer this question.

##### 1. Views of the General Public

Several surveys have been conducted to ascertain the general public's disposition on the military union issue. Some of these have biased their results by the manner in which they presented their questions to the public and/or by coupling the military union issue to a right to strike question (an often inflammatory issue which tends to bias other responses in the survey). None of the several surveys reviewed by the author attempted to define a military union, but relied instead on the individual's understanding of the term.

One survey which appears to have been structured in an unbiased manner was conducted earlier this year. This was a nationwide Gallop Poll survey which asked the question: "Would you favor or oppose unionization of the American armed forces?" Seventy-four percent opposed the idea, 13 percent favored it, and 10 percent had no opinion.



Interestingly enough, opposition to organizing the armed forces was found to be nearly as great among union as nonunion families. Both groups were opposed to the idea -- 71 percent to 16 percent and 74 percent to 10 percent, respectively. [Los Angeles Times 1977]

A previous survey conducted by the Public Services Research Council during 1976 linked two questions together and asked: "Do you favor or oppose members of the U. S. Armed Forces being organized into unions?" And, "Do you believe members of the Armed Forces should be permitted to go on strike?" These questions were passed to 1,529 people nationwide and it was found that 82 percent opposed both unionization and striking in the armed forces. The strongest opposition came from: those over 45 years of age; those with education beyond high school; and, those who were not affiliated with a union in the private sector. The greatest support came from those between 18 and 24 years of age and racial minorities. [Army July 1976 and Thurmond 1977]

Two other surveys which are completely biased in their questioning are also being conducted. One is supported by Senator Helms and is being conducted by Americans Against Union Control of Government. The other is supported by Senator Garn and is being conducted by The Heritage Foundation. Neither will be discussed at greater length in this thesis, but both are mentioned at this point to make the reader aware of their existence. [Navy Times 11 July 1977]

Also of interest is a study which was completed in 1976 by Kramer Associates for the Department of Defense. This report examined the history of unionization within the public safety services (police, firemen, etc.) field and determined that public resistance to the idea of military

unions may be declining. The study indicates that there was, at one time, widespread fear of "great public inconvenience and injury" that might occur as a result of the unionization of police, firemen, teachers, nurses, and other public employees. Now, however, this apprehension "has been largely dissipated by the failure of any such calamities to appear" and this in turn has lowered "the ultimate barrier to negotiations between military people and defense." For this reason, the study concludes, there is a "distinct possibility for the foreseeable future of some form of collective bargaining for military personnel." [Kramer Associates 1976]

Many commentaries which reflect the public's opinion on the topic of military unions have been published in regional newspapers. The following sample seems to portray the general feeling conveyed in this media [Thurmond 1977, p. 26-29]:

- \* News and Courier, Charleston, South Carolina, 8 March 1976:

To be for military unionism is to be for a reduction in discipline and hence efficiency. Anybody who doesn't believe that should consult the occasions in American history when military affairs were a matter of bargaining between troops and leaders. The inevitable outcomes of such a system are, first, disaster; next, an eager return to discipline. The American army learned the lesson in the Civil War.

- \* Hartford Times, Hartford, Connecticut, 29 May 1976:

The talk of unionizing the nation's military forces is disturbing and has frightening implications that this nation cannot afford to risk. . . .

- \* Indianapolis News, Indianapolis, Indiana, 25 September 1976:

The possibility that it [union militancy] might be extended to the military is downright alarming, and legislative prohibitions are clearly in order.

\* Washington Star, Washington, D. C., 2 October 1976:

Discipline is the indispensable ingredient in military operations. The military is not, and cannot be, a democratic organization. There is no room for negotiation or vote on whether commands are to be followed. . . . The military cannot be compared to private industry, or even to Federal civilian employment.

\* Dallas Morning News, Dallas, Texas, 7 October 1976:

The armed forces depend on obedience to superior authority; there can be no resort by dissatisfied infantrymen to the mediation of shop stewards. An order is to be carried out because it is an order. . . . Unionization would destroy discipline.

In summary, it can be said that, at present, the general public is opposed to military unions. Opposition is strongest when the public is led to believe that military unions would have the power to strike. Unfortunately, it is not known what the public's reaction would be to military unions if they realized that military unions would be, as a minimum, subject to the same restrictions that are currently placed on Federal employee unions. However, it appears reasonable to assume that opposition would be much less than the aforementioned studies indicated. In any event, the Kramer study points out that opposition to military unions, in general, shows signs of declining over time.

## 2. Views of Service Personnel

Several studies have been conducted to determine how military personnel regard military unions. Three of these will be compared in the following paragraphs to give the reader an understanding of the military person's point of view.

The first and best known of these studies was conducted by T. Roger Manley, et. al, Air Force Institute of



Technology, during April 1976. The survey questionnaire consisted of 65 items and was designed to determine the attitude of active duty Air Force personnel toward military unionization. The questionnaire was distributed to a randomly selected sample of 800 officers and 800 enlisted personnel; a total of 938 completed questionnaires were returned. [Manley 1977]

The second study was conducted by Dr. David R. Segal, et. al, University of Maryland, during the first few months of 1977. This study was much smaller than the Manley study and consisted of a sample of 121 active Army personnel at Fort Benning, Georgia. The Segal study differed from the Manley study in one other way. It surveyed only personnel in combat arms. Segal reasoned that because of the Air Force's dependence on complex technology, relative non-involvement of its enlisted personnel in combat, and its virtual lack of a historical military tradition, any study of the attitudes of Air Force personnel would represent only the attitudes of the support segment of the armed forces. Segal's study attempted to provide the missing part of the picture. [Segal 1977]

The third study, aimed at "mid-career" personnel, was conducted by James McCollum, et. al, Virginia Polytechnic Institute, during November 1976. Three hundred and fifty Army personnel (pay grade O-3 and E-5 through E-7) were chosen at random to participate in the survey from a list of officers and noncommissioned officers living in quarters at Fort Bragg, North Carolina. McCollum received responses from 112 recipients. [McCollum 1977]

Below is a generalized interpretation of the key issues which those questioned were asked to respond to in the three studies:



- \* Is there a need for military unions?

	<u>Manley</u>		<u>Segal</u>		<u>McCollum</u>	
	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>
Officers	64%	21%	-	-	55%	21%
O4-O6	-	-	83%	7%	-	-
WO-03	-	-	71%	23%	-	-
Enlisted	39%	34%	-	-	38%	40%
E5-E9	-	-	50%	17%	-	-
E1-E4	-	-	27%	33%	-	-

- \* Could military unions prevent the erosion of fringe benefits?

	<u>Manley</u>		<u>Segal</u>		<u>McCollum</u>	
	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>
Officers	31%	56%	-	-	29%	53%
Enlisted	20%	60%	-	-	22%	55%
Overall	22%	59%	42%	51%	25%	54%

- \* Could military unions effectively represent the interests of military personnel with Congress through lobbying?

	<u>Manley</u>		<u>Segal</u>		<u>McCollum</u>	
	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>
Officers	28%	59%	-	-	-	-
Enlisted	16%	57%	-	-	-	-
Overall	19%	57%	36%	32%	-	-

- \* Could military unions secure higher pay raises for their members than would be obtained without them?

	<u>Manley</u>		<u>Segal</u>		<u>McCollum</u>	
	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>
Officers	23%	72%	-	-	-	-
Enlisted	20%	67%	-	-	-	-
Overall	20%	68%	36%	45%	-	-

- \* Would military unions have a negative effect on discipline?

	<u>Manley</u>		<u>Segal</u>		<u>McCollum</u>	
	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>	<u>No</u>	<u>Yes</u>
Officers	19%	72%	-	-	25%	54%
Enlisted	37%	48%	-	-	40%	54%
Overall	34%	52%	29%	58%	34%	54%

### 3. Views of the Leadership of the Armed Forces

President Carter provided his views on efforts to organize armed forces personnel during a question and answer period following a March 1977 speech at the Pentagon:

My own opinion, which is strongly held, is that it would not be advisable to have the military personnel unionized. . . .

I don't know of any strong move in that direction. I believe that most of the leaders of our national and international labor unions agree. I have never had any of those leaders approach me with the intention of going forward with this effort.

I know it has been discussed in isolated areas and by some responsible people, but I think the national leaders, even in the labor movement, have no commitment to this proposition. [Armed Forces Journal April 1977, p. 19]

Within the Department of Defense, both civilian and military leaders are in total opposition to any union role in the uniformed military and they speak with what amounts to a single voice on the subject. Key leaders have expressed the following views:

\* Secretary of Defense Harold Brown:

The armed forces of the United States occupy a unique position in society. They require specialized management and a uniquely high degree of discipline and sacrifice for the proper performance of their duties. The relation between a member of the armed forces and his superiors, or between the soldier and the government, is not an employee-employer relationship.

Moreover, our military force is a vital element in the execution of U. S. foreign policy. The functional role of our armed forces demands absolute certainty of immediate and total responsiveness to lawful orders. Since the changing nature of warfare has consistently decreased available reaction time, our military must be quickly and completely responsive to external threats. Inherent in this requirement is the need for an unencumbered command and control system.

The collective bargaining process is fundamentally incompatible with this basic requirement. Collective bargaining, with its aspects of shared decision-making and forms of consultation prior to action, cannot accord with the basic requirements of the U. S. military in the performance of its mission in terms of undivided command authority and immediate reliable responsiveness to that authority.

Moreover, the effectiveness of our military force in support of foreign policy is founded in its apparent capability to perform its assigned missions. This is

justifiably based upon a proven history of effective performance under a system of unified command authority. Any uncertainty of our future performance inherent in the introduction of another control system for our military personnel could weaken our credibility in the eyes of foreign nations. [Navy Times 11 April 1977, p. 34]

\* Chairman of the Joint Chiefs of Staff General George S. Brown:

I think unionization and the operation of the military forces are totally incompatible. . . . Military personnel cannot live up to the oath of service and still work under a union contract. We cannot have it. [Navy Times 23 February 1976, p. 30]

\* Chief of Naval Operations Admiral Holloway:

I believe unionization, in the sense that there would be collective bargaining to determine whether or not certain operations would be undertaken, is unthinkable in a military sense. However, it is my belief that our military people will probably start using associations such as the Fleet Reserve Association to a much greater degree to have their rights and privileges looked after on a much broader scale. I think and hope that will be the trend for the future. [Whisler 1977]

\* Army Chief of Staff General Rogers:

We don't need any unions to represent our soldiers -- that is a responsibility of the Army leadership. [Army Times 25 October 1976, p. 8]

\* Chief of Naval Personnel Vice Admiral Watkins

From the perspective of the Service Personnel Chiefs, it is certain that a union presence would seriously impact on the personnel management field. . . . Assuming current operational requirements remained unchanged, personnel costs in all areas could soar due to competition for more personnel dollars in the budget process. More time and manpower could be required to process personnel actions on an individual rather than policy basis. All experience indicates that a climate for development of adversary relationships within the chain of command would be created. The Services' experience with the organized activities of anti-Vietnam War dissidents graphically illustrated how entry of collective actions into the military can disrupt the required orderly functioning of the chain of command and adversely impact upon the morale of all military personnel. [Watkins 1977, p. 10]

The reasons most often cited by civilian and military leaders within the Department of Defense for their opposition to military unions are as follows:



1. Union representation of active duty military personnel would undermine the chain of command and erode military discipline
2. Sound leadership and management obviate the need for union representation of armed forces personnel
3. Congressional support for the fundamental needs of military personnel obviate any need for a union representation [Taylor, W. April 1977]

Equaling the opposition to military unions of the leaders in the Department of Defense is the United States Senate. This is best evidenced by this body's 72 - 3 roll call vote passing a bill (S. 274) to prohibit labor unions in the armed forces (this bill is discussed in an earlier chapter) on 16 September 1977. [Monterey Peninsula Herald 17 September 1977]

The position of the House of Representatives on the subject is not as clearly defined. However, the general attitude of the House appears to have been summed up by Representative Mahon, Chairman of both the Defense Subcommittee and the parent House Appropriations Committee, when he stated: "I am appalled that we are even discussing unionizing. I know that there has been some erosion (of benefits) but I hope not to the point that we need unions." [Navy Times 23 February 1976]

A similar view is held by Representative Stratton:

I am a great believer in unions but, frankly, the whole idea of unions in the Armed Forces seems entirely out of place. My gut reaction is that this would be a mistake. Congress is the place where service personnel should turn if they have a problem. [Whisler 1977]



More recently, Representative Stratton provided a clear indication of how the House plans to deal with the military union issue when he predicted that the Senate's bill (S.274) would be passed during the current session and then sent to the President early in 1978 [Navy Times 24 October 1977]

#### E. WESTERN EUROPEAN MILITARY UNIONS

It is generally accepted and has been widely publicized that collective action groups of the military union variety exist in seven Western European countries -- Austria, Belgium, Denmark, Federal Republic of Germany, the Netherlands, Norway, and Sweden. Both proponents and opponents of unions in the armed forces of this nation have made the assumption that the Western European experience is relevant to the military union issue in the United States. They have then proceeded to use analogies to argue their pro or con view of military unions in this country. However, at this point, one must ask: "Is the European experience relevant to the situation in the United States?" To answer this question, to determine how European military unions operate, and to see what they have done for their members, military unionism in each of these nations will be reviewed in the following paragraphs.

##### 1. Austria

Austria has a total armed force of 12,300 regular, 25,000 conscripts, and a total mobilization strength of 150,000. The mission of its military is self-defense and the nation has declared itself neutral. Austria has a

socialistic form of government in which political parties derive their power base from the trade unions of which the military is a part. [Hagen 1975]

The Austrian experience with military unions dates back to 1920. The experience lasted for 14 years and represents the world's only experience with a unionized all-volunteer force. Even though military union membership was again authorized in 1945, it was not until 1967 that military personnel began taking an active role. At that time a branch of the Austrian Trade Union Federation (ATUF) was designated to represent officers and noncommissioned officers. While the parent union is able to strike and no law or regulation precludes the military branch from striking, the military union adheres to a self-imposed no-strike policy. The union's authority is restricted to collective bargaining on economic and welfare matters and it cannot interfere with military decisions. During periods of national emergency, Austrian law prohibits union involvement with military personnel. Currently, approximately 66 percent of Austria's officers and 75 percent of its noncommissioned officers are union members. [Hagen 1975 and Taylor, W. August 1977]

Military members of the ATUF enjoy the same rights and privileges as civilian members of the union. Benefits claimed by the union include pay raises, increased leave with pay, and uniform allowances for field training. [Hagen 1975]

## 2. Belgium

Belgium is a member of NATO and has armed forces totaling 90,000. The nation is plagued by economic crisis, unemployment, political fragmentation and linguistic

quarrels. The political system, within which military unions can align themselves with a political party, is dominated by social democrats. [Hagen 1975 and Taylor, W. August 1977]

Military personnel have been authorized to join trade unions which are recognized as representing personnel in the civil service since 1975. The Ministry of Defense recognizes three unions -- one each for officers, noncommissioned officers, and corporals and below (excluding draftees). By law these unions are permitted to collectively bargain for higher pay and for changes in working conditions including reduced working hours but are prohibited from striking or dealing with matters involving discipline. [Whisler 1977]

Fragmented by trade and religious affiliations, Belgium's military unions have had difficulty in acting cohesively. Despite this failing, union pressure has resulted in a 40-hour work week and overtime compensation. Currently, military union membership is estimated to be only 10 percent of the armed force, but this percent is growing rapidly. [Cortright 1976]

### 3. Denmark

Denmark is governed by Social Democrats, has an armed forces totaling 37,000, and is a NATO member. The nation is highly unionized with 900,000 workers (about 95 percent of the work force) out of a population of five million belonging to 70 national trade unions. [Hagen 1975]

Since 1922, Denmark has permitted military personnel to join unions which collectively bargain at the national level with the Ministry of Defense or Ministry of Finance on

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such matters as pay, benefits, and working conditions. Fourteen separate but cooperating organizations for officers and one main organization with several sub-organizations for enlisted personnel are in existence. Membership in one of these organizations is virtually automatic unless specifically declined. As a result, 98 percent of the career officers (including flag officers) and 92 percent of the career enlisted personnel (draftees are not eligible) are union members. [Hagen 1975, Whisler 1977, and Taylor, C. August 1977]

Military unions are prohibited by law from striking, cannot engage in command matters, and have little power over the functioning of the armed forces. Regardless of the limitations, these unions have negotiated improvements in basic pay, working conditions, special pay for overtime (over 40 hours), and uniform reimbursement. The unions also provide legal assistance to their members in grievance procedures and assist them in insurance planning. [Hagen 1975 and Cortright 1976]

#### 4. Federal Republic of Germany

West Germany is a key member of NATO and its armed forces number 490,000. Like many other Western European countries, the German society is highly unionized. By law, military personnel are permitted to join unions and associations to safeguard and improve working and economic conditions, but as in the civilian sector, the military is not permitted to strike. Salaries and working conditions are fixed by law and not by collective bargaining. However, the military union (5,000 members) through its parent union, the Public Services and Transportation Union (OTV), is

successful in supporting and placing its own members in both Parliament and the executive and is thereby able to influence the outcome of various relevant laws. [Hagen 1975, Whisler 1977, and Taylor, W. August 1977]

In terms of membership, military unionism in Germany has not been very successful. This can be attributed to three factors: (1) service personnel prefer to belong to the military association known as the Bundeswehr Verbannde (52 percent of the armed forces -- private first class to four-star general -- are members); (2) conscripts have little interest in joining for the 15 months that they will be in the armed forces; and, (3) the professional military distrusts the union and discourages would-be members. [Strickland 1976, Whisler 1977, and Taylor, W. August 1977]

The OTV and Bundeswehr Verbannde which in reality are very similar, complement each other in garnering favorable action for armed forces personnel in the non-military aspects of service life -- better pay, easier promotions, increased recreational facilities, better health coverage, and a pension plan which is comparable to other sectors of the German economy. By agreement, both the association and union do not enter into grievances over duty matters or interfere with discipline. [Hagen 1975, AUSA May 1976, Kane 1976]

##### 5. The Netherlands

Holland has a Social Democratic form of government, an armed forces totaling approximately 60,000, and is a NATO partner. Since 1921, the armed forces have had a system of institutionalized consultation without collective bargaining or the right to strike. Institutional consultation means that discussions between representatives of military unions

and officials of the armed forces take place on matters of mutual concern before governmental decisions are implemented. This process is accomplished through the monthly meetings of the Central Committee on the Institutional Consultation of the Military which is made up of elected representatives from 12 officially recognized military employee organizations (four officer, five noncommissioned officer, one corporal, and two conscript) and appropriate Defense Ministry officials. This Committee is chaired by the Minister of Defense. [Spaith 1976, Kane 1976, and Whisler 1977]

Eighty percent of all military personnel belong to the 12 military unions. Outside of Holland, the best known of these is the larger of the two conscript unions, the Organization of Conscripted Soldiers (VVDM). Founded in 1966, VVDM has approximately 25,000 members (about 50 percent of the conscripts). In its early years the union was aided by progressive Dutch officers schooled in theories of modern management. In 1969, the viability of the VVDM was enhanced when the government granted such privileges as automatic dues withholding, free office space, and payment for the time spent on the union's activities by its seven elected officers. Through a mass protest in 1971, the conscripts forced the Defense Ministry to allow hair length to be left to the individual's choice. Since that time petitions and demonstrations have accomplished the following:

1. Pay has been increased to the mandatory minimum civilian youth wage for a person of 20
2. Inspections and unnecessary formations have been eliminated
3. Saluting is optional



4. The military penal code has been reformed, abolishing close detention and reduction in rank
5. New billeting standards have been established and various facilities have been modernized [Kane 1976 and Cortright 1977]

6. Norway

Norway has a population of 4,000,000 and armed forces of roughly 35,000. The nation is governed by Social Democrats and highly unionized. In fact, trade unions play a key part in the political process and are part of the ruling party. Therefore, it should not be surprising that Norway had the first military unions. [Hagan 1975 and Taylor, W. August 1977]

The early military unions were professional and social associations which began about 1835. Today, there are two major federations under which military unions are organized -- the Norwegian Federation of Labor (LO) and the Joint Organization of Officers and Sergeants (BFO). LO represents the vast majority of Labor unions in Norway. However, most military unions are affiliated with BFO which represents not only military personnel but also the national policemen. Membership in a union for all career officers and noncommissioned officers is not only mandatory but essential. As a result, 90 percent of all officers and 70 percent of the enlisted members of the armed forces are members. [Strickland 1976, Taylor, W. August 1977, and Whisler 1977]

Union membership is essential because of Norway's unique system of determining military pay. Through this system, each labor federation collectively bargains with the



National Price Board for the pay of its members to arrive at a two or three-year contract. Without a federation, military personnel would not be represented before the National Price Board. In addition to performing this essential function, the federations also collectively bargain with the government on overtime limitations, housing, retirement and other social benefits. However, federations and affiliated military unions are not permitted to strike against the military or interfere with military law; in times of war or other national emergencies, they are also precluded from representing their members. [Quinn 1971, AUSA May 1976, and Deline 1977]

Conscripts, who serve from 12 to 15 months on active duty, are not permitted to join one of the military unions or to form their own. There is, however, an informal "Telletsmann" system which permits draftees to elect the equivalent of shop stewards at the unit level to represent them outside of the chain of command. [Strickland 1976 and Whisler 1977]

## 7. Sweden

Sweden has a small standing armed forces but is able to mobilize to a strength of 750,000. Like Norway, this country is governed by Social Democrats and is highly unionized. Sweden's military unions came into existence in 1965 with the enactment of the State Officials Act which extended the private sector's collective bargaining rights over wages and working conditions to nearly all military personnel and national civil servants.

The vast majority (99 percent) of all officers, warrant officers, and noncommissioned officers belong to their respective unions. Conscripts are not authorized to

belong to a military union but can and usually do maintain their membership in private sector unions during the seven to 15 months they are on active duty. Two of the three military unions, the Company Officers Union and the Platoon Officers' Union, are affiliated with the Central Organization of Salaried Employees, the largest white-collar union in Sweden. The Swedish Officers' Union, the third military union, is affiliated with a smaller public union federation. As a result of this arrangement, the large and powerful public employee unions of Sweden bargain and negotiate directly with the Government Board for Collective Bargaining on such matters as job classification, pay, hours of work, pensions, promotions, job safety, and grievance procedures for the military unions. A formal labor contract is concluded every two years. [Hagen 1975, Kane 1976, Cortright 1977, Taylor, W. August 1977]

Until a few years ago, the Swedish military unions had the right to strike but, for all practical purposes, they do not today. However, the public employee unions with which the military unions are affiliated, do have the right to strike. [Whisler 1977]

#### 8. Relevancy to the United States

The preceeding sections have briefly reviewed collective action in each of the seven Western European nations which are widely believed to have military unions in their armed forces. This review has revealed many dissimilarities which should be considered when looking at the relevancy issue (i.e., application of the European military union experience to the situation in the United States). Critics who have questioned the relevancy of the European experience to the American scene have focused on the following differences to emphasize their point:

1. A general European military union model which can be applied to the United States does not exist. Instead, a different and distinct model has developed in each country to both fit the nation's unique political system and social structure and fulfill the collective action needs of the nation's military personnel. [Taylor, W. August 1977]
2. The adversary relationship between employers and collective action groups is less pronounced in the seven European nations and strikes occur less often than they do in the United States. [Parnell 1977 and Schratz 1977]
3. European unions play a larger part in determining government policy and are more integrated into the government than they are in the United States. [Schratz 1977 and Taylor, W. August 1977]
4. Each of the seven European nations is far less racially, culturally, and ethnically heterogeneous than the United States. [Wright 1977]
5. Conscription is the rule in Europe while the United States now relies on an All-Volunteer Force. [Krendel 1977 and Taylor, W. August 1977]
6. The armed forces of the European nations are committed to self-defense within their borders while the United States has world-wide commitments which are not always as easily related to the defense of the homeland (author's observation).
7. The seven European nations for the most part rely on small standing armies with large reserves that would be mobilized in an emergency while in the United States the opposite is true (author's observation).



Despite the differences described above, which tend to weaken the relevancy of the European experience to possible similiar activities in the United States, there are several broad and general inferences which can be extracted. First, both military unions and military associations appear to be highly effective alternatives which can fulfill the collective action needs of service personnel. While European military unions have been given credit for improving compensation and working conditions, not all of these so-called military unions are unions. Those in Germany and the Netherlands, without the right to bargain collectively, would seem to be more closely related to military associations in this country. Despite this limitation, the collective action groups in these countries do not appear to be less effective than the groups thcse in countries which do have the right to collective bargaining. Is it not possible that military associations in this country could be as effective as any proposed military unions?

Second, military unions appear to evolve as a natural phencmenon from the growth and development of public sector unions. In each of the seven European nations discussed, military unions have come into being in this manner. If public sector unions in this country continue to grow and gain broader powers, is it not possible that military unions will be an eventual outcome?

Third, collective bargaining, a vital ingredient for the existence of military unions, has been effectively limited to conditions of work, personnel policies, and grievances. In all cases, European military unions cannot engage in command matters and have little if any power over the functioning of the armed forces. Interestingly enough, European military unions and civilian Federal employee



unions, a potential source from which military unions could develop in the United States, are limited in their collective bargaining to roughly the same issues. If military unions come into being in this country at some future date, is it not possible that the use of collective bargaining could be restricted to certain issues?

## VI. ANALYSIS AND CONCLUSION

During the 1970's military personnel have perceived a growing need to band together outside the chain-of-command for the purpose of taking collective action. The primary reason for this is the firming conviction that the fundamental character of a service career as a respected, secure way of life, where the leadership of the armed forces takes care of its own, is being eroded. While military personnel have seen continuing efforts to improve the quality of life of civilian counterparts throughout the American society, they have also seen continuous attacks on, and a decline in, their comparative standard of living. While being expected to maintain their personal commitment to the armed forces, they perceive their traditional spokesmen before Congress to be less committed to improving or even maintaining their existing benefits. The efforts in their behalf by armed forces spokesmen appear to them to be, at best, merely holding actions to defer further erosions and not the positive initiatives they have seen in the civilian sector. To reduce uncertainty over their future security and to bring the scales back into balance, military personnel have begun to consider seriously seeking the aid of collective action groups -- military associations and unions -- as a substitute for the leadership of the armed forces which has traditionally acted as their Washington level ombudsmen.

Societal forces provide a second reason for the growing desire for collective action among military personnel. Both the continuing liberalization of American society and the substitution of monetary incentives for traditional military

institutional benefits are seen as contributing factors. While the liberalization of American society will probably reduce opposition to the military union form of collective action group as time passes, the substitution of monetary incentives as the primary inducement to military service has had a more immediate and direct effect. This substitution has shifted the idea of military service from the institutional model or "calling" to the occupational model. In the occupational model, because military-man sees military service as a "job like any other," he no longer feels that there is something special about his profession. As a result, military-man places a much higher value on promoting his self-interests than he did when he believed the military way of life was a "calling." To achieve his self-interests, he is looking to collective action groups for assistance.

A third reason which helps to explain the developing desire for collective action among military personnel is the linkage of military pay and civilian pay in the Federal sector. Because of this linkage, a large and powerful civilian Federal employee union, the AFGE, has seen itself as representing military personnel in pay matters with their common employer, the Federal Government, but the AFGE is not reaping the added power and wealth that the unionization of military personnel would bring. To the AFGE, members of the military appear to be "free-loading." In order to change this situation, the AFGE started a publicity campaign in 1975 to lay the ground work for military unionization. The objective of this campaign was to enhance dissatisfaction and to point out how collective action groups of the union variety could help military personnel obtain and retain their rightful share of the nation's wealth.

To fulfill the growing need for collective action in the armed forces there are two distinct types of collective

action groups which could be used by military personnel -- military unions and military associations. While both offer certain advantages and disadvantages, military personnel have in the past generally avoided a critical unbiased comparison of the two forms of collective action groups. Instead, members of the armed forces have tended to view military unions as a complete panacea, while disregarding the potential utility of military associations. In general, this appears to have been due to the large volume of publicity generated on military unions subsequent to the 27 June 1975 article in the Wall Street Journal -- the article which broke the news that the AFGE was studying the possibility of taking uniformed armed forces personnel into its membership. Another factor which caused military unions to be seen as a panacea was the successes of Western European military unions in vastly improving pay, benefits, and working conditions of service personnel during the 1970's. A third factor was the belief, exploited by the AFGE to serve its own purposes, that military associations had not been very effective in protecting the rights and benefits of service personnel in the past.

A difficulty which must be faced in a comparison between military associations and military unions in this country is the fact that the former exists and the latter does not. The author attempted to overcome this problem by using a surrogate -- civilian Federal employee unions. The rationale behind the choice of this surrogate is : (1) civilian Federal employee unions are the likeliest source of any future military unionization effort (see Chapter V); (2) they have experience dealing with the common employer, the Federal Government, of their members and military personnel; and, (3) they operate within a set of laws and regulations which would more closely approximate future possibilities in the military than any private sector or other public sector unions.



Using the surrogate approach, a comparison of the advantages and disadvantages of military associations and unions reveals a number of key points. First, through various publications, military associations are doing a highly satisfactory job of keeping their members informed of existing and pending laws and regulations which effect or could effect their members. An examination of similar publications distributed by existing civilian Federal employee unions reveals that they too do a highly effective job in this area.

Second, both military associations and civilian Federal employee unions have had successes in achieving their goals and objectives and both have had failures. Both use congressional lobbyists to influence legislation, but because of the right to collective bargaining, civilian Federal employee unions appear to have been more successful in improving the economic conditions of their members than have military associations. However, since civilian Federal employee unions would have to operate under a more restrictive set of laws and regulations in the military environment -- one which does not allow collective bargaining -- it is doubtful if they could have been or would be more effective than the military associations are under this condition.

Third, military associations and civilian Federal employee unions can improve their effectiveness by increasing their memberships. Both associations and unions are firmly convinced that this is a basic truth. One of the primary reasons given by civilian Federal employee unions for their past successes has been their large numbers of members. On the other hand, the reason most often given by military associations for not being more effective is the lack of support from military personnel who have not, until recently, felt the need for collective action.

Fourth, an organization of military personnel calling itself a military union or seen as a military union because of its affiliation with a civilian Federal employee union would be less acceptable to the leadership of the armed forces and the general public. A military union would, therefore, meet with stiffer resistance to its goals and objectives than would a military association. While many of those who are part of the leadership of the armed forces have voiced strong opposition to military unions, they have at the same time actively encouraged service personnel to join and support military associations.

Fifth, while civilian Federal employee unions have gained some experience in dealing with the military establishment on employee rights and benefits through their representation of National Guard and Reserve technicians, they lack the vast experience that military associations have accumulated through their many years of working closely with the leadership of the armed forces to improve the rights and benefits of service personnel. In addition, the executive positions of the various associations are almost entirely filled by retired and active military personnel who have had many years of service experience, have a close relationship with the military establishment, and have a good idea of what military personnel need and want. On the other hand, civilian Federal employee unions are staffed almost entirely by active or retired civilian Government employees who see the world in a different light than do military personnel.

Sixth, both military associations and civilian Federal employee unions have as their primary objective the protection and improvement of the economic well-being of their members. Civilian Federal employee unions have, in addition, sought to improve the working conditions and personnel policies affecting their members. Only recently

have a few of the military associations become interested and involved in these areas. However, if the need for collective action continues to grow in the armed forces, it seems likely that military association members will come to demand that their associations take a more active part in helping them achieve what they believe to be equity in a broader range of personnel matters.

An extensive examination of collective action groups has led the author to conclude that both military associations and military unions are viable means by which military personnel, in general, can achieve collective action. However, due to many obstacles which are not likely to disappear in the foreseeable future, the military union form of collective action group does not appear to be an available alternative for United States military personnel to fulfill their collective action needs. Foremost among these obstacles is an existing Department of Defense regulation against unionization which it appears will be coupled with strongly supported anti-military union legislation now pending in Congress. While the Defense regulation makes membership in a military union by service personnel a punishable offense under the Uniform Code of Military Justice, the pending legislation is even tougher. It will not only make military union membership a felony, punishable in civilian courts, but will also make the existence of military unions unlawful (see Chapter III). A second and closely related obstacle is the strong opposition voiced by the general public, the press, the President, Congress, civilian and military leaders within the Department of Defense, and members of Federal sector employee unions. Without significant support, or at least indifference by the general public and press, it is highly unlikely that a President or member of Congress would jeopardize his political career to give military unions the support which would cause sanctions against them to be



mitigated. A third obstacle which will cause the status quo to continue is the fact that court challenges to the existing regulations and the pending legislation when enacted, are very likely to be unsuccessful. This view is based on: (1) the Supreme Court's past reluctance to interfere with the President and the Congress in the exercise of their constitutionally mandated power to regulate, govern, and operate the armed forces; and, (2) the concept of military necessity which allows individual liberties protected under the Bill of Rights to be restricted when higher needs of the nation are involved (see Chapter III).

At a December meeting of the Monterey Peninsula Chapter of NCOA, United States Representative Leon Panetta told the Association's members that, "You [the military community] will be set aside if you don't get involved in the legislative process. It is the squeaking wheel that draws the grease." Since this is a reality of the American system of government, there is a definite need for some form of collective action group to represent the personnel of the armed forces. Because military associations have been effective and can be more so if larger numbers of military personnel join them, because they are legal, and because they provide a means which allows military personnel, as a group, to help determine their future economic and social standing, the associations seem well suited to the task of acting as that "squeaking wheel" that "draws the grease" for the military community.



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